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Illinois Collection

E. B. MYERS' EDITION.

STATUTES
OF THE
STATE OF ILLINOIS
OF

GENERAL IMPORTANCE,

PASSED AT THE ADJOURNED SESSION

OF THE
TWENTY-EIGHTH GENERAL ASSEMBLY,

1873-74.

PUBLISHED BY AUTHORITY.

CHICAGO:
E. B. MYERS, LAW BOOKSELLER,
93 WASHINGTON STREET.
1874.

AN ACT

AUTHORIZING E. B. MYERS, OF CHICAGO, TO PUBLISH THE PUBLIC LAWS
AS PASSED AT EACH SESSION OF THE GENERAL
ASSEMBLY OF THIS STATE.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That E. B. Myers, Law Book Publisher, of Chicago, be and is hereby authorized to publish such an edition of the Public Laws of the State of Illinois, passed at each Session of the General Assembly, as he may deem proper, and sell the same upon his own private account.*

SEC. 2. *Be it further enacted, That it shall be and is hereby made the duty of the Secretary of State to furnish on demand, the said E. B. Myers, immediately after the enrollment and deposit of the same in the office of the said Secretary of State, a true copy of each and every Public Law passed by the said General Assembly, at each and every Session, for which said service the said Secretary of State, for the time being, shall receive from the said E. B. Myers such compensation for the copies aforesaid as may be allowed by law for similar services.*

SEC. 3. *Be it further enacted, That all Public Laws published by the said E. B. Myers in pursuance of this Act, shall be and the same are hereby declared to be prima facie evidence of the existence of such Laws, in and before all Courts of Law and Equity in this State.*

SEC. 4. This Act to take effect and be in force from and after its passage.

Approved February 16, 1865.

194749

PUBLISHER'S NOTICE.

Under and pursuant to an act entitled "An act authorizing E. B. Myers, of Chicago, to publish the public laws as passed at each session of the general assembly of this state," approved February 16, 1865, I have hitherto published the aforesaid laws. The Twenty-eighth General Assembly, at its adjourned session, completed the revision of the statutes, and provided for their compilation and publication so as to furnish them at prices which defy competition. I had therefore almost determined not to publish the laws passed at such session, but the urgent calls for the acts of more general importance, especially in connection with my former publications, induced me to publish an edition to supply the immediate wants of the people, until the "Revision" can be had from the state, which it is feared will not be before the first of October or November next. In making selection of the laws which are contained in this volume, I have taken the advice of some of the most eminent lawyers in the State; and I desire it to be distinctly understood that this volume does not contain all the laws passed at the adjourned session of the Twenty-eighth General Assembly, but only those of general and immediate importance. By referring to the TABLE OF CONTENTS, or SUMMARY OF LEGISLATION, immediately following this preface, and comparing them, it will be readily seen what is published in this volume and what acts have been omitted.

E. B. MYERS.

Chicago, May 28, 1874.

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An act to authorize the establishment of a ferry across the Illinois river.

An act to amend section 132 of "An act in regard to electors, and provides for filling vacancies in elective offices, approved April 3, 1872." Approved Feb. 9.

An act to encourage the planting and growing of timber. Approved Feb. 9.

An act to repeal an act entitled "An act to provide for the election of additional supervisors in the counties therein named." Approved Feb. 9.

An act to enable cemetery companies to sell and convey land not required for burial purposes. Approved Feb. 13.

An act to revise the law in relation to the criminal court of Cook county. Approved Feb. 13.

An act making an appropriation for the ordinary expenses of the Southern Normal University. Approved Feb. 13.

An act to revise the law in relation to fugitives from justice. Approved Feb. 16.

An act in regard to the dissolution of insurance companies. Approved Feb. 17.

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An act to revise the law in relation to county surveyors and the custody of the United States field notes. Approved March 2.

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An act to revise the law in relation to recorders. Approved March 9.

An act to revise the law in relation to oil inspection. Approved March 12.

An act in regard to horse and dummy railroads. Approved March 18.

An act to revise the law in regard to estrays and other lost property. Approved March 23.

An act to revise the law in relation to militia. Approved March 23.

An act to set off from incorporated villages certain territory, which, by the county board, has been formed into a town or part thereof. Approved March 23.

An act relative to property conveyed, devised, or bequeathed to the state in trust for charitable purposes. Approved March 23.

An act to revise the law in relation to paupers. Approved March 23.

An act making an appropriation for repairing the lock gates in the Little Wabash river. Approved March 23.

An act to revise the law in relation to telegraph companies. Approved March 24.

An act to revise the law in relation to universities, colleges, academies and other institutions of learning. Approved March 24.

* See Publishers' notice, page 3.

An act to protect colored children in their rights to attend public schools. Approved March 24.

An act to provide a fund for the relief of members of the police and fire departments in incorporated cities, who were wounded or disabled in the discharge of their duties. Approved March 24.

An act to reorganize the Illinois State Horticultural Society. Approved March 24.

An act to revise the law in relation to mines. Approved March 25.

An act to revise the law in relation to township insurance companies. Approved March 25.

An act regulating the labors of the convicts of the penitentiary of the state. Approved March 25.

An act to make an appropriation for compensation to military companies for services rendered in the city of Chicago in the month of October, 1871. Approved March 25.

An act to secure the free passage of fish in all the waters of the state. Approved March 25.

An act authorizing the trustees of the State Reform School to lease the labor of the inmates. Approved March 26.

An act to appropriate money for the purchase of furniture and bedding for the Illinois Soldiers' Orphans' Home. Approved March 26.

An act making an appropriation for the payment of E. Payne for binding the first and second volumes of the Geological Report of the State of Illinois. Approved March 26.

An act to appropriate money to pay the salary and expense of publishing the report of the state entomologist. Approved March 27.

An act to amend sections 1, 2, 4, 7, 9 and 12 of an act entitled "An act for the register of electors and to prevent fraudulent voting." Approved Feb. 15, 1865; and to repeal section 10 of said act. Approved March 27.

An act to revise the law in relation to secretary of state. Approved March 30.

An act to revise the law in relation to permitting animals to run at large. Approved March 30.

An act to empower the auditor to draw his warrant for unexpended money, heretofore appropriated to the institution for the education of the blind, and for a further appropriation to said institution. Approved March 30.

An act to enable the board of supervisors of Lawrence county to acquire title to the S. pt. S. W. $\frac{1}{4}$, Sec. 3, T. 2 N., Range 11 west, 73 acres, and to hold and dispose of the same for the use of the pauper fund of said county. Approved March 30.

An act to further provide for the ordinary and contingent expenses of the state government until the expiration of the first fiscal quarter and until the adjournment of the next regular session of the general assembly. Approved March 30.

An act to provide for the publication of the revised statutes of the state. Approved March 30.

An act to fix the liability of common carriers receiving property for transportation. Approved March 27.

An act in relation to the office of chancellor in universities of learning. Approved March 28.

An act to provide for the payment of the registered indebtedness of counties, townships, cities, and towns. Approved March 27.

An act to revise the law in relation to state contracts. Approved March 31.

An act repealing act establishing court of common pleas in the city of Amboy; approved March 11, 1869. Approved February 18, 1874.

An act revising law in relation to general assembly. Approved Feb. 25.

An act providing for the laying of water supply pipe, by bonds and special assessment, payable in installments. Approved March 17.

An act re-implementing McLean county in the sum of \$4,850 in abatement of taxes for the year 1872. Approved March 24.

An act appropriating \$18,000 for buildings and other improvements for the State Reform School, and for the purchase of stock. Approved March 25.

An act preventing the licensing of houses of ill-fame and the official inspection and medical examination of the inmates of the same. Approved March 27.

An act authorizing the removal of the feeder dam across the Calumet river, near Blue Island, in Cook county, and to provide compensation to C. Pfeiffer and John Roll, etc. Approved March 27.

HOUSE BILLS.

An act to amend section three of an act entitled "An act to allow convicts in the penitentiary a credit in diminution of their sentence and for their being restored to citizenship." Approved Feb. 8.

An act to repeal section two of an act to authorize the city of Macomb to elect supervisors and other officers. Approved Feb. 11.

An act to repeal an act entitled "An act to attach a portion of town 19 north, range 12 west to town 18 north, range 12 west, in Vermilion county." Approved Feb. 13.

An act to provide for the removal of the monument, tombstones and remains of certain members of the general assembly of this state, who were buried at Vandalia. Approved Feb. 13.

An act to promote the science of medicine and surgery in the state of Illinois.

An act to authorize the trustees of the Illinois State Hospital for the Insane at Jacksonville to sell and convey one and a half acres of land to the city of Jacksonville for public water-works. Approved Feb. 16.

An act to revise the law in relation to county treasurer. Approved Feb. 26.

An act to revise the law in relation to names. Approved Feb. 26.

An act to revise the law in regard to the state library. Approved March 26.

An act in regard to canal companies. Approved March 2.

An act to revise the law in relation to common law. Approved March 5.

An act to repeal "An act to establish a board of fire engineers, and to organize the fire department in the city of Quincy, approved Feb. 13, 1865." And an act to amend said act, etc. Approved March 13.

An act to repeal an act to attach all fractional townships in Kankakee county to full townships therein, for school purposes. Adopted March 16.

An act to amend section 46 of an act entitled "An act to fix the salaries of state officers, of the judges of the circuit court and the superior court of Cook county, and of the state's attorney, approved March 29, 1872." Approved March 16.

An act to limit and determine the time for which counties, etc., shall be liable and holden, to issue aid for the building of any railroad, in pursuance of vote, etc. Approved March 17.

An act to authorize courts of record, in certain cases, to order lands to be subdivided and platted. Approved March 19.

An act to revise the law in relation to limited partnership. Approved March 19.

An act to enable towns and villages in counties in this state having more than 40,000 inhabitants, according to the last federal census, having commons, to dispose of the same. Approved March 21.

An act to revise the law in relation to ferries. Approved March 21.

An act to revise the law in relation to plats. Approved March 21.

An act to revise the law in relation to escheats. Approved March 24.

An act to amend section 35 of an act to establish and maintain a system of free schools, approved April 1, 1872. Approved March 25.

An act to revise the law in relation to boats, vessels and rafts. Approved March 25.

An act to enable library associations to sell and transfer their real and personal property. Approved March 25.

An act in regard to attorneys general and state's attorneys. Approved March 26.

An act making an appropriation for the benefit of the state board of agriculture and county agricultural boards.

An act to revise the law in relation to the department of agriculture, county agricultural boards, and agricultural fairs. Approved March 27.

An act to amend an act entitled "An act to fix the salaries of state officers, etc." Approved March 27.

An act to provide for the payment of the expenses of the senate penitentiary investigating committee, and expenses of other committees. Approved March 29.

An act to enable boards of underwriters incorporated under the laws of the State of Illinois, to establish and maintain a fire patrol. Approved March 28.

An act to regulate the means of egress from public buildings. Approved March 28.

An act to provide for the sale of unclaimed property by common carriers, warehouse men and inn-keepers. Approved March 28.

An act to amend section 1 of an act making appropriations for the payment of the indebtedness of the Soldiers' Orphans' Home. Approved March 29.

An act to amend an act entitled "An act in relation to the penitentiary at Joliet," to be entitled an act to provide for the management of the Illinois state penitentiary. Approved March 28.

An act to revise the law in relation to attorneys and counsellors. Approved March 28.

An act to revise the law in relation to the Illinois and Michigan canal, and the improvement of the same. Approved March 28.

An act to amend the title of an act to fix the Salaries of state officers. Approved March 28.

An act to enable cities and villages to establish and maintain cemeteries. Approved March 28.

An act entitled an act to secure to clergymen of all denominations free access to the penitentiary at Joliet and other penal, reformatory, or charitable institutions in the state of Illinois. Approved March 28.

An act to amend section 6 of an act to authorize cities, incorporated towns and townships to establish and maintain free public libraries and reading rooms, approved March 7, 1872. Approved March 28.

An act to amend section 50 of "An act to establish and maintain a system of free schools, etc." Approved March 30.

An act in relation to fencing and operating railroads. Approved March 31, 1874.

An act to authorize incorporated cities, towns, or villages in this state, situated upon the banks of navigable rivers to lease parts of their public landings or levees. Approved March 31, 1874.

An act amending section 44 of act fixing salaries of state officers and judges of circuit courts and superior court of Cook county, of the state attorneys, etc. Approved Jan. 2.

An act for the relief of Frederick Wagner. Approved Feb. 2.

An act amending sections 6, 7 and 9 of an act regarding completion of public parks and the management thereof; approved June 16, 1871. And to add two sections thereto. Approved Feb. 18.

An act providing for fees of certain officers therein named in counties of the third class. Approved March 2.

STATUTES OF ILLINOIS

OF GENERAL IMPORTANCE,

PASSED AT THE ADJOURNED

SESSION OF THE TWENTY-EIGHTH GENERAL ASSEMBLY.

1873-4.

ABATEMENT.

AN ACT TO REVISE THE LAW IN RELATION TO ABATEMENT.

Approved March 2, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That no plea in abatement other than a plea to the jurisdiction of the court, or when the matters relied upon to establish the truth thereof appear of record, shall be admitted, unless the same is verified by the affidavit of the person offering the same, or of some other person for him.

§ 2. When a plea in abatement is adjudged insufficient by the court, the plaintiff shall recover all costs in the suit to the time of overruling such plea.

§ 3. No action or proceeding shall be defeated by plea in abatement, if the defect found is capable of amendment, and is amended on terms prescribed by the court.

§ 4. When a defendant, in an action upon a contract, express or implied, pleads in abatement the non-joinder of any other person as defendant, the court shall, at any time before issue joined on such plea, allow the plaintiff to amend his declaration by inserting therein the name of the person named in such plea, and declaring against him jointly with the original defendant.

§ 5. The plaintiff shall thereupon sue out a new summons against the person so made defendant (unless he enters his appearance), returnable in

Abatement.

like manner as other summons, requiring such defendant to appear and answer the original action.

§ 6. Upon the return of such summons served upon such new defendant, or upon his appearance, the suit may proceed in all respects as if he had been made a party at the commencement of the suit.

§ 7. If a new defendant cannot be served with process, the plaintiff, on the return of such summons, may proceed as in other cases in which service is had on part of the defendants only.

§ 8. No second plea in abatement for the non-joinder of defendants shall be allowed to the same defendant.

§ 9. No action, proceeding, or complaint, in law or equity, commenced by or against a *feme sole*, either alone or with others, shall abate on account of her intermarriage before final judgment, but she may continue to prosecute or defend the same in like manner as if she were *sole*.

§ 10. When there is but one plaintiff, petitioner, or complainant in an action, proceeding, or complaint, in law or equity, and he shall die before final judgment or decree, such action, proceeding, or complaint shall not, on that account, abate, if the cause of action survive to the heir, devisee, executor, or administrator of such decedent, but any of such to whom the cause of action shall survive, may, by suggesting such death upon the record, be substituted as plaintiff, petitioner, or complainant, and prosecute the same as in other cases.

§ 11. When there is but one defendant in an action, proceeding, or complaint, in law or equity, and he dies before final judgment or decree, such action, proceeding, or complaint shall not, on that account, abate, if it might be originally prosecuted against the heir, devisee, executor, or administrator of such defendant, but the plaintiff, petitioner, or complainant may suggest such death on the record, and shall, by order of the court, have summons against such person or legal representative, requiring him to appear and defend the action, proceeding, or complaint, after which it may proceed as if it had been originally commenced against him.

§ 12. When there are several plaintiffs, petitioners, or complainants, or defendants in an action, proceeding or complaint, in law or equity, the cause of which survives, and any of them die before final judgment or decree, the action, proceeding, or complaint shall not, on that account, abate, but such death may be suggested on the record, and the cause proceed at the suit of the surviving plaintiff, petitioner, or complainant, or against the surviving defendant, as the case may be, in all cases, as if such persons had been originally sole parties to the suit.

§ 13. If, in the case mentioned in the preceding section, all the plaintiffs, petitioners, or complainants, or all the defendants die, the cause may be prosecuted or defended by or against the heir, devisee, executor, or administrator to or against whom the cause survives, of the last surviving plaintiff, petitioner, complainant, or defendant respectively, in like manner as if the

survivor had been originally the only plaintiff, petitioner, complainant, or defendant.

§ 14. If there are several plaintiffs in an action of ejectment, and any of them die before final judgment, the death of such party may be suggested on the record, and the heir or devisee of the deceased party shall be admitted to prosecute the suit jointly with the survivor, in the same manner as if he had originally joined with him in commencing the action.

§ 15. If the interest of the deceased party passes to the surviving plaintiff, or if the heir or devisee of the deceased party does not, within a reasonable time, to be fixed by the court, join in the prosecution of the suit, the surviving plaintiff may prosecute the suit for so much of the premises in question as may then be claimed by him.

§ 16. In case of the death of any of several defendants in an action of ejectment, the action may be prosecuted against the other defendants for so much of the premises as they hold or claim, or the death being suggested, the heir or devisee of the deceased party may be made co-defendant with the others, and the suit proceed the same as if such heir or devisee had originally been made co-defendant.

§ 17. When there are several complainants or defendants in a suit or proceeding in chancery and any of them die, and the cause of action does not survive to the surviving complainant or against the surviving defendant, and any other persons become interested therein in consequence of such decease, such suit or proceeding shall, by reason of such death, be abated only with respect to such deceased party; and the person or legal representative so becoming interested may be made a party to such suit or proceeding in the same manner as in case of the death of a sole complainant or defendant; or the suit or proceeding may be prosecuted by the surviving complainant against the surviving defendant without reviving the same in favor of or against the person or legal representative so becoming interested therein; but in the latter case such interested person or legal representative, not made a party, shall not be bound by any order or decree made in the cause.

§ 18. When an executor, administrator, guardian or conservator is plaintiff, petitioner or complainant, or defendant in a suit or proceeding in law or equity, and dies, resigns, or is removed from office before final judgment or decree, the suit or proceeding shall not on that account abate, but the same may be continued by or against his successor, in like manner as in case of the death of other parties.

§ 19. When an action, proceeding or complaint in law or equity is authorized or directed by law to be brought by or in the name of any public officer, or by any trustee appointed by virtue of any statute, and such officer or trustee dies or ceases to be such officer or trustee before final judgment or decree, the suit shall not on that account abate, but the same may be continued by his successor in like manner as in case of the death of other parties.

Account, action of.

§ 20. If, during the pendency of an action, proceeding or complaint, in law or equity, either party becomes insane, the cause may be prosecuted or defended by his conservator in like manner as by an executor or administrator in case of the death of a party, or the court may appoint a guardian *ad litem* as the case may require.

§ 21. No plea in abatement shall be received in any suit for partition, nor shall such suit abate by the death of any tenant.

§ 22. No suit for the partition of land shall abate on account of the death of any party thereto, but it may be continued in the names of the survivors, if the interest of such deceased person survives to them; and if such interest passes to other persons, they may be made parties in like manner as in the case of the death of other parties, and the same proceedings may be had as if they had been made parties originally.

§ 23. No suit, instituted in the name of one for the use of another, shall abate by reason of the death of the person whose name is used; but it may be continued by the real plaintiff in interest, in his own name, on his suggesting such death on the record, and an order of the court being made, substituting his name for that of the deceased plaintiff.

§ 24. The provisions of this act shall apply to all appeals, writs of error, and of *certiorari*, so far as the same may be made applicable.

§ 25. Process authorized by this act may be sued out either in term time or in vacation, and may be directed to any county, and shall correspond, as nearly as may be, to the original writ, and may be executed and returned in the same manner.

§ 26. No such process for the substitution of another person in the place of the original defendant, shall be sued out after the second day of the second term of the court next after the death or disability of the original party shall be suggested on the record, except upon the further order of the court, for good cause shown.

ACCOUNT.

AN ACT IN REGARD TO THE ACTION OF ACCOUNT.

Approved March 30, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That where one or more joint tenants, tenants in common, or co-parceners in real estate, or any interest therein, shall take and use the profits or benefits thereof, in greater proportion than his, her or their interest, such person or persons, his, her or their executors and administrators, shall account therefor to his or their co-tenant jointly or severally.*

 Process. - - - Declaration.

§ 2. The action of account may be sustained:

First — By one joint tenant, tenant in common or co-parcener, his or her executor or administrator, against the other or others, who receive, as bailiffs, more than his or their due proportion of the profits or benefits of such estate.

Second — By an executor or administrator, with the will annexed, being residuary legatees against the co-executor or co-administrator, with the will annexed.

Third — By a residuary legatee against executors and administrators.

Fourth — By and against executors and administrators, in all cases in which the same might have been maintained by and against their testator or intestate.

Fifth — By one or more co-partner or co-partners against the other co-partner or co-partners, to settle and adjust their co-partnership accounts and dealings, making all said co-partners parties to said action, either as plaintiffs or defendants.

Sixth — On book account.

§ 3. When any person is or shall be liable to account as guardian, bailiff or receiver, or otherwise, to another, and will not give an account willingly, the party to whom such an account ought to be made may bring his or her action of account; and if the person against whom such action may be brought be summoned, and does not appear at the return of the writ, and abide the order of the court, then such defendant shall be attached by his body to appear and render his account.

§ 4. The original process in actions of account shall be the same as is or may be provided by law for other personal actions, and shall be served and returned in the same manner.

§ 5. The declaration in an action on book account, (except the commencement and conclusion,) may be in the following form, to wit:

“In a plea, that the defendant render to the plaintiff the sum of dollars, which the plaintiff says is justly due from the defendant, to balance book accounts between them, as by the plaintiff's original book, ready to be produced in court, may appear. Now the plaintiff says that the defendant, though often requested, has ever refused, and still does refuse, to settle and adjust the account of the plaintiff, or to pay the balance thereon due.”

§ 6. If the defendant, in an action of account, shall plead in defense any plea, which being true, he ought not to account, the issue thereon may be tried by a jury, and if a verdict be found against him, or if such defendant shall not appear, or, appearing, shall confess that he ought to account with the plaintiff, the court shall render judgment that he do account.

§ 7. Whenever a judgment shall be rendered against any defendant that he account, the court shall appoint one or more able, disinterested and judicious men as auditors, to hear, examine and adjust the accounts between the parties, who shall, before they enter on their duties, be sworn faithfully and

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impartially to take and state the account between the parties, and make report to the court.

§ 8. Such auditors, or a majority of them, shall have power to appoint the time and place for the hearing, and shall cause reasonable notice thereof to be given to the parties, and if the defendant shall fail or refuse to attend at the time and place appointed, and render his account, or appearing, shall not render an account, the auditors shall proceed to take the account, and shall award to the party appearing such sum as, on his showing, shall appear to be justly due, which showing shall be on the oath of the party, or other evidence as the nature of the case may require or admit.

§ 9. Any auditor, so appointed, may administer all necessary oaths or affirmations, either to parties or witnesses in the hearing and examination of such accounts, and require, by subpoenas, the attendance of such witnesses, and the production of such books and papers as may be required by either party.

§ 10. At the time and place of the hearing such auditors, or a majority of them, shall proceed to take and state the accounts, and take the testimony of witnesses, and examine either or all of the parties on oath, respecting any account or item thereof, submitted by either party, and compel the attendance of witnesses and production of books and papers. If either party, or any witness, shall refuse to be sworn or answer proper questions respecting said accounts or any item thereof, the auditors, or a majority of them, may report the same to the court, and the court shall commit him to jail, there to remain until he consent to be sworn or answer the interrogatories, or be discharged by the court according to law; or if any party shall refuse to be sworn or to answer directly any question put by the auditors or under their direction, such refusal, relative to the particular matter to which oath or answer is required, shall be taken against the party so refusing.

§ 11. The auditors, or a majority of them, shall liquidate and adjust the accounts and state the balance and to whom due, and make report to the court, and if no just cause be shown to the contrary, after the same shall be approved by the court, judgment shall be rendered on such report for such sum as shall be found in arrear from either party, with costs; and the party in favor of whom the report is made shall pay the auditors their fees, to be fixed by the court, which shall be taxed as costs.

§ 12. The court before which the action shall be pending, and also the auditors so appointed, or a majority of them, may call upon either party to produce, at any time pending the suit, either his ledger or original book of entries, or both, as they may think proper, and no disputed account shall be allowed upon the oath of the party, when it shall appear that he has an original book of entries, unless such book shall be produced upon reasonable request.

§ 13. The auditors appointed in any action of account, in hearing, examining and adjusting the accounts of the parties, shall hear, examine

Jurisdiction.

and adjust all the accounts existing between them of a similar nature, and in the same right, to the time of such hearing, including all questions of interest thereon.

§ 14. The auditors may notify the parties of the time and place of hearing, by causing them, or either of their attorneys of record, to be personally notified, or by citation, left at such parties' usual abode, at least ten days previous to the time of such hearing; and if the party have no domicile in this state, and have no attorney of record, by leaving such citation in the office of the clerk of the court in which such action shall be pending, at least thirty days before the time of hearing, which shall be deemed sufficient notice.

§ 15. The auditors may continue the hearing of any account from time to time, in their discretion.

§ 16. No formal pleadings shall be allowed to be filed before the auditors who may be appointed to take and state an account between the parties in any action of account.

§ 17. Justices of the peace shall have jurisdiction in all actions on book account where the amount of the balance owing to the plaintiff shall not exceed two hundred dollars; and in such actions brought before a justice of the peace, on book account, or when any book account shall be pleaded in offset before a justice of the peace, such justice shall have the same power to examine parties under oath that is given to auditors under this act.

§ 18. In all cases commenced under the first, fourth and fifth enumerations in section two of this act, the several courts of record in this state having chancery jurisdiction are empowered to hear, try and determine the same, to appoint auditors or commissioners in their discretion, to take testimony or to find and state facts, or to take, adjust and state accounts between said co-tenants, co-parceners or co-partners. And said courts are also empowered to make all such orders and decrees, either interlocutory or final, as may enable such courts to do complete justice to all parties, and such as such courts sitting in chancery could lawfully make in order to the adjustment and final settlement of all co-partnership accounts, matters and dealings whatever; and such courts shall render final judgment or judgments in any such action in favor of or against such co-tenants, co-parceners, or co-partners respectively, as shall be just and equitable, and such as said courts sitting in chancery might render; and may enforce such judgment or judgments by execution, or in any other way in which such courts sitting in chancery could enforce the same.

§ 19. Auditors and commissioners appointed agreeably to the provisions of the last preceding section, shall have the same power to administer oaths to parties and witnesses, and to compel the attendance of witnesses and the production of books and papers, and the parties shall have the same right and be under the same obligation to testify, as is provided in actions of account generally.

Administration of Estates.

§ 20. Whenever, on the trial of any action on book account, it shall appear to the court that any item or items of account or deal between the same parties, more properly belong to some other action of account, under this act, the same may be tried and adjusted in said action on book account.

§ 21. Either party may appeal or prosecute a writ of error from the final judgment rendered under and by virtue of this act, in the same manner, and upon the same conditions, as provided by law in other cases.

§ 22. Nothing in this act contained shall be so construed as to deprive courts of chancery of their jurisdiction in matters of account.

ADMINISTRATION OF ESTATES.

AN ACT TO AMEND SECTION NINETY-ONE OF AN ACT ENTITLED "AN ACT IN REGARD TO THE ADMINISTRATIONS OF ESTATES," APPROVED APRIL 1, 1872.

Approved February 9, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That section ninety-one of an act entitled "An act in regard to the administrations of estates," approved April 1, A. D. 1872, be and the same is amended, so as to read as follows:*

"§ 91. When it is necessary for the proper administration of the estate, the executor or administrator shall as soon as convenient after making the inventory and appraisal, sell at public sale all the personal property, goods and chattels of the decedent, when ordered to do so by the county court, (not reserved to the widow or included in specific legacies and bequests, when the sale of such legacies and bequests is not necessary to pay debts) upon giving three weeks' notice of the time and place of such sale by at least four advertisements, set up in the most public places in the county where the sale is to be made, or by inserting an advertisement in some newspaper published in the county where the sale is to be made, at least four weeks successively, previous thereto. The sale may be upon a credit of not less than six nor more than twelve months' time by taking note with good security of the purchasers at such sale. The sale may be for all cash, or part cash and part on time; *Provided*, that any part or all of such personal property may when so directed by the court, be sold at private sale."

ADVERTISEMENT.

AN ACT TO REVISE THE LAW IN RELATION TO NOTICES.

Approved February 18, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That when any notice shall be required by law, or the order of court, or by any contract, to be published in any newspaper, and no other mode of proving the same is provided, the certificate of the publisher, by himself or his authorized agent, with a written or printed copy of such notice annexed, stating the number of times which the same shall have been published, and the dates of the first and last papers containing the same, shall be sufficient evidence of the publication therein set forth.

§ 2. Whenever any notice is required by law to be published by any clerk, sheriff, master-in-chancery, or other officer, in a newspaper, the plaintiff or complainant, or his attorney, shall have the right to direct in what newspaper the notice shall be published, and if such officer shall make publication contrary to such direction, shall not be allowed to collect the costs thereof. This section shall not apply to any case where the court directs in what newspaper publication shall be made.

§ 3. Whenever notice is required by law, or order of court, and the number of publications is not specified, it shall be intended that the same be published for three successive weeks.

§ 4. When any notice is required by law or order of court, or any contract, and it is not otherwise provided, it shall be sufficient to publish the same in a weekly newspaper, and in no case shall any greater amount be chargeable as costs for the publication of such notice than will be sufficient to publish the same in such weekly newspaper.

§ 5. When any notice is required by law or contract to be published in a newspaper (unless otherwise expressly provided in the contract), it shall be intended to be in a secular newspaper of general circulation, published in the city, town or county, or some paper specially authorized by law to publish legal notices in the city, town or county.

§ 6. In computing the time for which any notice is to be given, whether required by law, order of court or contract, the first day shall be excluded and the last included, unless the last day is Sunday, and then it also shall be excluded.

§ 7. When any notice relating to any cause, matter or thing depending in any court of record, shall have been duly published, it may be paid for by the party at whose instance the same was published, and the expense, or so much thereof as shall be deemed reasonable, may be taxed as costs, or other-

wise allowed in the course of the proceedings to which such notice shall relate.

§ 8. When any notice shall be required by law to be published by a public officer in relation to public business, in pursuance of law, the reasonable expense thereof shall be allowed and paid out of the state or county treasury, as the case may require.

AMENDMENT.

AN ACT TO REVISE THE LAW IN RELATION TO AMENDMENTS AND JEOPAILS.

Approved February 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the court in which an action is pending shall have power to permit amendments in any process, pleading or proceeding in such action, either in form or substance, for the furtherance of justice, on such terms as shall be just, at any time before judgment rendered therein.

§ 2. After judgment rendered in any cause, any defects or imperfections in matter of form, contained in the record, pleadings, process, entries, returns or other proceedings in such cause, may be rectified and amended by the court in affirmance of the judgment, so that such judgment shall not be reversed or annulled; and any variance in the record from any process, pleading or proceeding had in such cause, shall be reformed and amended according to such original process, pleading or proceeding.

§ 3. No judgment shall be reversed, in the supreme court, for mere error in form, if the judgment be for the true amount of indebtedness or damages.

§ 4. All returns by any sheriff or other officer, or by any court or subordinate tribunal, to any court, may be amended in matter of form, or according to the truth of the matter, by the court to which such returns shall be made, in its discretion, as well before as after judgment.

§ 5. Any imperfection or defect in the award of any *venire*, or any omission to award such *venire* on the record, may be amended or supplied by the court in which the record is.

§ 6. Judgment shall not be arrested or stayed after verdict, nor shall any judgment upon verdict or finding by the court, or upon confession *nil dicti* or *non sum informatus*, or upon any writ of inquiry of damages, be reversed, impaired or in any way affected, by reason of any of the following imperfections, omissions, defects, matters or things in the process, pleadings, proceedings or records, namely:

First—For want of form in any writ, original or judicial.

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Second — For any default or lack of form in any writ, or misconceiving any process, or awarding the same to a wrong officer.

Third — ~~For~~ any imperfect or insufficient return by any sheriff or other officer, or that the name of such officer is not set to any return actually made by him.

Fourth — For any variance between the original writ of process and the declaration, bill, petition, plaint or demand.

Fifth — For any mispleading, insufficient pleading, lack of color, discontinuance, discontinuance or misjoining of the issue, or want of a joinder of the issue.

Sixth — For the lack of an averment of the life of any person, if, upon examination, the person is found to be in life.

Seventh — For the want of any warrant of attorney by either party, except in case of judgment by confession upon warrant of attorney.

Eighth — For the reason that the person in whose favor the verdict or judgment is rendered is an infant and appeared by attorney.

Ninth — For the want of any allegation or averment on account of which omission a special demurrer could have been maintained.

Tenth — For any mistake in the name of any party or person, or in any sum of money, or in the description of any property, or in reciting or stating any day, month or year, when the correct name, time, month or description shall have been once rightly alleged in any of the pleadings or proceedings.

Eleventh — For a mistake in the name of any juror or officer.

Twelfth — For the want of a right venue if the cause was tried by a jury of the proper county.

Thirteenth — For any informality in entering a judgment or making up the record thereof, or any continuance or other entry upon such record.

Fourteenth — For any other default or negligence of any officer of the court, or of the parties or their counselors or attorneys, by which neither party shall have been prejudiced.

§ 7. The omissions, imperfections, defects and variances in the preceding section enumerated, and all others of a like nature, not being against the right and justice of the matter of the suit, and not altering the issue between the parties or the trial, shall be supplied and amended by the court where the judgment shall be given, or by the court into which such judgment shall be removed by appeal or writ of error.

§ 8. No process, pleading or proceedings shall be amended or impaired by the clerk or other officer of any court, or by any other person, without the order of such court, or of some other court of competent authority.

§ 9. The provisions of this act shall extend to all actions in courts of law or chancery, and to all suits for the recovery of any debt due to the state, or for any duty or revenue thereto belonging; to all actions for penalties and forfeitures; to all writs of *mandamus* and prohibition; to all informations

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in the nature of a *quo warranto*; to writs of *scire facias*, and the proceedings thereon.

§ 10. All writs of error, wherein there shall be any variance from the original record, or any other defect, may and shall be amended, and made agreeable to such record by the respective courts where such writs of error are or shall be made returnable.

§ 11. No part of this act shall extend to any indictment or presentment for any criminal matter or process upon the same, or any information upon any popular or penal statute, or to any plea in abatement.

APPRENTICES.

AN ACT TO REVISE THE LAW IN RELATION TO APPRENTICES.

Approved February 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That children under the age of sixteen years may be bound as apprentices, clerks or servants, until they arrive at that age, with or without their consent.

§ 2. A minor may be bound as aforesaid by the father, with the consent of the mother, or in case of the death, habitual drunkenness, prostitution, imprisonment in the penitentiary or incapacity of the mother, or her wilful desertion of the family for six months, without her consent; or, in case of the death, habitual drunkenness, imprisonment in the penitentiary or incapacity of the father, or his desertion of the family for the space of six months, by the mother; or, in case neither father nor mother is living and free from said objections, by the guardian; or if the minor has no parent or guardian, by the judge of the county or circuit court of the county in which the minor resides. An illegitimate minor may be bound by his or her mother, during the lifetime of the putative father, as well as after his decease.

§ 3. The fact of such habitual drunkenness, prostitution, imprisonment, incapacity or desertion, may be tried and found by a jury to be impaneled for that purpose by the county or circuit court of the county in which the minor resides, upon such reasonable notice to the parties interested, by personal service or advertisement, as the court shall direct.

§ 4. The finding of the jury shall be indorsed upon the indenture by the judge, attested by the clerk, under the seal of the court, and shall be deemed sufficient evidence of the facts found.

§ 5. The executor or executors who are, or shall be, by the last will and testament of a father, directed to bring up his child to some trade or calling, shall have power to bind such child by indenture, in like manner as the

father, if living, might have done; or shall raise such child according to such directions: *Provided*, this section shall not be so construed as to deprive the mother of the custody and tuition of her child, without her consent, if she be a fit and competent person to have such custody and tuition.

§ 6. Any child under the age of sixteen, who habitually begs for alms, or who is, or either of whose parents is chargeable to the county or town as having a lawful settlement therein, whereby the child has also to be supported, or who is supported there, in whole or in part, at the charge of the county or town, may be bound as an apprentice, clerk or servant until he arrives at that age, by the county board or overseers of the poor, as the case may be, with the approval of the judge of the county or circuit court.

§ 7. The court may, on application of the county board or overseer of the poor, issue a writ requiring the sheriff, coroner, or any constable of the county, to bring such minor before it, for the purpose of being so bound.

§ 8. No minor shall be bound, unless by an indenture of two parts, sealed and delivered by both parties, and when the consent of any person or court is required, the same shall be signified, in writing, in or upon the indenture, and signed by the person or judge whose consent is required.

§ 9. The age and time of service of every apprentice or servant shall be inserted in such indentures; but if the age is unknown, then it shall be inserted according to the best information, which age shall, in relation to the term of service, be taken as the true age of such minor.

§ 10. In all indentures it shall be provided that the master shall cause such clerk, apprentice or servant, to be taught to read and write, and the ground rules of arithmetic; and also that at the expiration of such term of service, the master shall give to such apprentice a new bible, and two complete suits of new wearing apparel suitable to his or her condition in life, and twenty dollars in money in all cases where the term of service has been one year or more.

§ 11. Every sum of money paid or agreed for, with or in relation to the binding of any clerk, apprentice or servant, as a compensation for his services, shall be inserted in the indentures, and all money or property so paid or agreed to be paid, shall be secured to, and for the sole use and benefit of, the minor.

§ 12. Whenever any minor shall be bound by other than his parent or guardian, one copy of the indentures shall be filed in the office of the clerk of the county court, for safe keeping.

§ 13. All indentures, covenants, promises and bargains, for taking, binding or keeping any apprentice, clerk or servant, not in conformity with the provisions and requirements of this act, shall be utterly void in law, as against such clerk, apprentice or servant.

§ 14. It shall be the duty of the officers or persons binding such minors

and of the judge of the county or circuit court, to see that the terms of the indentures are complied with, and that such minor is not ill used.

§ 15. The judge of the circuit or county court shall at all times receive the complaints of any person against masters, alleging undeserved or immoderate correction, unwholesome food, insufficient allowance of food, raiment or lodging, want of sufficient care or physic in sickness, want of instruction in their trade or profession, or the violation of any of the agreements or covenants in the indentures of apprenticeship contained, or that the apprentice, clerk or servant is in danger of being removed out of the jurisdiction of this state; and shall cause such masters to be summoned before them, and shall, on the return of the summons, whether such master appear or not, hear and determine such cases in a summary way, and make such order thereon as in the judgment of the said judge will relieve the party injured in future; and shall have authority, if said judge think proper, to discharge such clerk, apprentice or servant from his apprenticeship or service; and in case any money or other thing shall have been paid, given, or contracted or agreed for by either party, in relation to the said apprenticeship or service, shall make such order concerning the same as the said judge shall deem just and reasonable. And if the apprentice so discharged shall have been bound originally as provided in the sixth section of this act, it shall be the duty of the judge granting the discharge again to bind him, if said judge shall think proper.

§ 16. It shall not be lawful for any master to remove any clerk, apprentice or servant bound to him as aforesaid, out of this state without the consent of the county court; and if, at any time, it shall appear to any judge or justice of the peace, upon the oath of any competent person, that any master is about to remove or cause to be removed any such clerk, apprentice or servant out of this state, it shall be lawful for such judge or justice to issue his warrant, and to cause such master to be brought before him, and if upon examination, it appear that such apprentice, clerk or servant is in danger of being removed without the jurisdiction of this state, the judge or justice may require the master to enter into recognizance, with sufficient security, in the sum of one thousand dollars, conditioned that such apprentice, clerk, or servant shall not be removed without the jurisdiction of this state, and that the said master will appear with the apprentice, clerk or servant before the circuit court, at the next term thereof, and abide the decision of the court therein; which recognizance shall be returned to the circuit court, and the said court shall proceed therein in a summary manner, and may discharge or continue the recognizance, or may require a new recognizance, and otherwise proceed according to law and justice. But if the master, when brought before any judge or justice, according to the provisions of this section, will not enter into a recognizance as aforesaid, if required so to do, it shall be lawful for such court or justice to discharge such clerk, apprentice or servant from such apprenticeship or service, and to

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award judgment against such master for costs, and for such sum as, considering the terms of the indenture and the condition of the parties, may be deemed just and reasonable.

§ 17. Whenever any master of any clerk, apprentice or servant, bound by the court as aforesaid, shall wish to remove out of this state, or to quit his trade or business, it shall be lawful for him to appear with his clerk, apprentice or servant before the circuit or county court of the proper county; and such court shall have power, if deemed expedient, to discharge such clerk, apprentice or servant from the service of such master.

§ 18. When any person shall become bound as clerk, apprentice or servant, according to the provisions of this act, to two or more persons, and one or more of them die before the expiration of the term of service, the indentures and contracts shall survive to and against such survivors; and in case of the death of all the masters in any such indenture or contract named, before the expiration of the term of service, such clerk, apprentice or servant shall be thereby discharged from such service.

§ 19. Every person who shall counsel, persuade or entice any clerk, apprentice or servant to run away, or to absent himself from the service of his master, or to rebel against or assault his master, shall forfeit and pay a sum not less than twenty dollars, nor more than five hundred dollars, to be sued for and recovered by action on the case, with costs, by such master, in any court of competent jurisdiction.

BAIL.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONCERNING BAIL IN CIVIL CASES," APPROVED JANUARY 22, 1872.

Approved February 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section four of an act entitled "An act concerning bail in civil cases," approved January 22, 1872, be amended so as to read as follows:

"§ 4. Where any writ shall have been issued from any court of record in this state, whereon bail is required, the sheriff, or other officer to whom the same may be directed, shall take a bail bond to himself, with sufficient security, in the sum for which bail is required. And for the purpose of avoiding errors in the taking thereof, the condition shall be substantially in the following form:

"The condition of this obligation is such, that whereas A B has lately sued out of the court of the county of, a certain writ of *capias*.

Bonds.

ad respondendum, in a certain plea of, against C D, returnable to the next term of the said court, to be holden at, on the day of next. Now, if the said C D shall be and appear at the said court, to be holden at, on the day of next, and in case the said E F shall not be received as bail in the said action, shall put in good and sufficient bail, which shall be received by the plaintiff, or shall be adjudged sufficient by the court, or the said E F, being accepted as bail, shall pay and satisfy the costs and condemnation money which may be rendered against the said C D in the plea aforesaid, or surrender the body of the said C D in execution, in case the said C D shall not pay and satisfy the said costs and condemnation money, or surrender himself in execution, when by law such surrender is required, then this obligation to be void: otherwise to remain in full force and effect.

Which bond, so taken, shall be returned with the writ, on or before the first day of the term of the court to which the writ is returnable. The officer making an arrest under the provisions of this act, shall give the person arrested reasonable time and opportunity to procure bail, before committing such person to the jail."

BONDS.

AN ACT TO REVISE THE LAW IN RELATION TO OFFICIAL BONDS.

Approved March 18, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That all public officers who are compelled to give official bonds may be required by the court, officer, or board, whose duty it is to take or approve such bonds, to give additional surety or new bonds whenever the security of the original bond has become insufficient by the subsequent insolvency, death, or removal of the sureties, or any of them, or when for any cause any such bond shall be deemed insufficient. Any officer failing to give bond when required, pursuant to this section, within ten days after he is notified in writing of such request, shall be deemed to have vacated his office.

§ 2. It shall be the duty of the governor, on or before the first day of January and July in each year, and at such other times as in his opinion the interest of the state demands it, to examine and inquire into the sufficiency of the official bonds of the secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, attorney general, canal commissioners, commissioners of the penitentiary, and all other state officers or agents whose bonds are filed with the secretary of state; and whenever he shall find any bond insufficient, he shall require sufficient bond to be filed.

Sufficiency, etc.

§ 3. It shall be the duty of the judge of the circuit court of each county, except of the county of Cook, and of the chief justice of said court in Cook county, at the first term of said courts after the first day of January and July in each year, on the first day of the term, in open court, to examine and inquire into the sufficiency of all official bonds required by law to be filed in the offices of the clerks of their respective courts.

§ 4. It shall be the duty of the judge of the county court of each county, at the terms of said court to be held in the months of January and July of each year, on the first day of the term, in open court, to examine and inquire into the sufficiency of all official bonds required by law to be filed in the office of the county clerk or of the clerk of the county court, including bonds of executors, administrators, guardians and conservators.

§ 5. It shall be the duty of the said judges to cause to be entered upon the records of their respective courts, at the times hereinbefore prescribed for the making of such examinations, that an examination and inquiry into the sufficiency of the official bonds within their cognizance has been made, and that they are severally deemed sufficient, or insufficient, as the facts may justify.

§ 6. Any person having any pecuniary interest in the sufficiency of the official bond of any of the officers hereinbefore referred to may appear before the governor or the court, as the case may be, at the time of the examination of official bonds, and make suggestions in relation to the sufficiency of any such bond, and offer any legal evidence tending to show the same to be insufficient, and any officer whose bond is being examined may also appear and introduce any legal evidence tending to show the sufficiency of his official bond.

§ 7. If, upon any examination by either of said judges, he is of opinion that for any reason the bond of any officer is insufficient, he shall cause to be issued from his court a summons to such officer to appear before said court on a day fixed therein, to show cause why he should not be required to give a new bond with sufficient surety.

§ 8. If such officer fails to satisfy the court that his official bond is sufficient, the court shall require him, within such time as it shall direct, not exceeding thirty days, to give a new bond, with sufficient sureties, to be approved in the same manner as the bonds of such officers are required by law to be approved.

§ 9. If any such officer fails to give such new bond within the time prescribed, he shall be deemed to have vacated his office, and the vacancy shall be filled as required by law.

§ 10. When a surety upon the official bond of any state officer or agent, county, town, city, village, incorporated town or other public officer, or the heir, executor, or administrator of such surety desires to be released from such bond, he may give notice in writing to the officer upon whose bond he is surety that he desires to be so released, and that such officer give

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a new bond with sufficient sureties within ten days after receiving such notice, and may within five days after the service of such notice deliver a copy of the same, with an affidavit showing the time and manner of service, to the court, officer, or board authorized to approve the bonds of such officers. And if such officer shall not within ten days after receiving such notice, or within such further time, not exceeding twenty days, as the court, officer, or board shall allow, give a new bond with sufficient security, approved as required by law, his office shall become vacant, and the vacancy shall be filled as provided by law.

§ 11. If a new bond shall be given by any officer, as provided in the foregoing sections of this act, then the former sureties shall be entirely released and discharged from liabilities incurred by any such officer in consequence of business which may have come to hand from and after the time of the approval of the said new bond, and the sureties to the new bond are hereby declared to be liable for all the official delinquencies of said officer, whether of omission or commission, which may occur after the approval of the new bond as aforesaid; but the provisions of this act shall not be so construed as to operate as a release of the sureties of any of the aforesaid officers, for liabilities incurred previous to the filing of a new bond, as required in the foregoing sections of this act.

§ 12. It shall be the duty of such officer, if he shall fail to give bond as provided for in this act, forthwith to deliver over to his sureties all books, moneys, vouchers, papers and every description of property whatever pertaining to his office, and the said sureties may, at any time after said failure to file said bond, maintain an action of replevin, or other appropriate action, to recover such property, money or effects from their said principal.

§ 13. Whenever the condition of the bond of any public officer shall be violated, suit may be instituted on such bond, and prosecuted to final judgment against such officer, and any or all the sureties, or against one or more of them, jointly and severally, without first establishing the liability of the principal, by obtaining judgment against him alone. The provisions of this section shall extend to the official bonds of executors, administrators, guardians and conservators, and in suits thereon it shall not be necessary to a recovery that a devastavit should have previously been established against the principal.

§ 14. Execution may issue on any judgment so rendered as in ordinary cases, but the officer executing the same shall not levy upon the property of the sureties until he shall fail to find sufficient property of the principal to satisfy such execution: *Provided, however,* the judgment and execution shall be a lien upon the property of the sureties as in ordinary cases.

CONVEYANCES.

AN ACT TO AMEND SECTION TWENTY OF AN ACT ENTITLED "AN ACT CONCERNING CONVEYANCES," APPROVED MARCH 29, 1872.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That section twenty (20) of an act entitled "An act concerning conveyances," approved March 29, 1872, be amended so as to read as follows :*

"§ 20. Deeds, mortgages, conveyances, releases, powers of attorney or other writings of or relating to the sale, conveyance or other disposition of real estate, or any interest therein, whereby the rights of any person may be affected in law or in equity, may be acknowledged or proved before some one of the following courts or officers, namely :

"First—When acknowledged or proved within this state, before a master in chancery, notary public, United States commissioner, circuit or county clerk, justice of the peace, or any court of record having a seal, or any judge, justice or clerk of any such court. When taken before a notary public or United States commissioner, the same shall be attested by his official seal; when taken before a court, or the clerk thereof, the same shall be attested by the seal of such court; and when taken before a justice of the peace, there shall be added the certificate of the county clerk, under his seal of office, that the person taking such acknowledgment or proof was a justice of the peace in said county, at the time of taking the same. If the justice of the peace reside in the county where the lands mentioned in the instrument are situated, no such certificate shall be required.

"Second—When acknowledged or proved without this state and within the United States or their territories, or the District of Columbia, before a justice of the peace, a notary public, United States commissioner, commissioner to take acknowledgments of deeds, mayor of a city, clerk of a county, or before any judge, justice or clerk of the supreme or any circuit or district court of the United States, or any judge, justice or clerk of the supreme circuit, superior, district, county or common pleas court of any of the United States or their territories. When such acknowledgment or proof is made before a notary public, United States commissioner, commissioner of deeds, mayor of a city, or clerk, it shall be certified by such officer, under his seal of office. If before a mayor of a city, it shall be certified under the seal of such city; if before a justice of the peace, there shall be added a certificate of the proper clerk, under the seal of his office, setting forth that the person before whom such proof or acknowledgment was made, was a justice of the peace at the time of making the same. An acknowledgment or proof may be made in

Covenants of Warranty. - - - Coroners.

conformity with the laws of the state, territory or district where it is made: *Provided*, that if any clerk of a court of record, within such state, territory or district, shall, under his hand and the seal of such court, certify that such deed or instrument is executed and acknowledged or proved, in conformity with the laws of such state, territory or district, or it shall so appear by the laws of such state, territory or district, duly proved and certified copies of the record of such deeds, mortgages or other instruments relating to real estate, heretofore or hereafter made and recorded in the proper county, may be read in evidence, as in other cases of such certified copies, upon such a certificate of conformity to the laws of the state, territory or district where such deeds, mortgages or other instruments were made and acknowledged, being exhibited therewith or annexed thereto.

“Third—When acknowledged or proved without the United States, then before any court of any republic, state, kingdom or empire having a seal; or any mayor or chief officer of any city or town having a seal; or before any minister, or secretary of legation, or consul of the United States in any foreign country, attested by his official seal; or before any officer authorized by the laws of such foreign country to take acknowledgments of conveyances of real estate, if he have a seal—such deed to be attested by the official seal of such court or officer. And in case such acknowledgment or proof is taken other than before a court of record, or mayor, or chief officer of a town having a seal, proof that the officer taking such acknowledgment was duly authorized by the laws of his country to do so shall accompany the certificate of such acknowledgment.”

AN ACT CONCERNING COVENANTS OF WARRANTY.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That no covenant of warranty shall be considered as broken by the existence of a highway upon the land conveyed, unless otherwise particularly specified in the deed.

CORONERS.

AN ACT TO REVISE THE LAW IN RELATION TO CORONERS.

Approved February 6, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That every coroner shall be commissioned by the

Bond. - - Duties.

governor, but no commission shall issue except upon the certificate of the county clerk of the proper county of the due election or appointment of such coroner, and that he has filed his bond and taken the oath of office as hereinafter provided.

§ 2. Before entering upon the duties of his office, he shall give bond, with two or more sufficient sureties, to be approved by the judge of the county court of his county, in the penal sum of five thousand dollars, (except that the bond of the coroner of Cook county shall be in the penal sum of fifteen thousand dollars) payable to the People of the State of Illinois, conditioned that he will faithfully discharge all the duties required or to be required of him by law as such coroner or as sheriff of the county, in case he shall act as such; which bond shall be entered at large upon the records of the county court and filed in the office of the county clerk of his county.

§ 3. He shall also, before entering upon the duties of his office, take and subscribe the oath or affirmation prescribed by section twenty-five, article five of the constitution, which shall be filed in the office of the county clerk of his county.

§ 4. If any person elected or appointed to the office of coroner of any county shall fail to give bond, or take the oath required of him, within twenty days after he is appointed or declared elected, the office shall be deemed vacant.

§ 5. Copies of such bond, certified by the county clerk, or of the said record thereof certified by the clerk of the county court, shall be received as evidence.

§ 6. Each coroner shall be conservator of the peace in his county, and in the performance of his duties as such, shall have the same powers as the sheriff.

§ 7. When it appears from the papers in the case that the sheriff or his deputy is a party thereto, or from affidavit filed that he is interested therein, or is of kin, or partial to or prejudiced against either party, the summons, execution or other process may be directed to the coroner, who shall perform all the duties in relation thereto, and attend to the suit in like manner as if he were sheriff; and the interests, consanguinity, partiality or prejudice of the sheriff shall not be cause for a change of venue.

§ 8. If there is no coroner, or it shall appear in like manner that he is also a party to or interested in the suit, or of kin, or partial to, or prejudiced against either party, process may in like manner issue to any constable in the county, who shall perform like duties as required of the coroner.

§ 9. Where the office of sheriff is vacant, the coroner of the county shall perform all the duties required by law to be performed by the sheriff, and have the same powers, and be liable to the same penalties and proceedings as if he were sheriff, until another sheriff is elected or appointed and qualified.

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INQUESTS.

§ 10. Every coroner, whenever and as soon as he knows or is informed that the dead body of any person is found or is lying within his county, supposed to have come to his death by violence, casualty or any undue means, he shall repair to the place where the dead body is and take charge of the same, and forthwith summon a jury of twelve good and lawful men of the neighborhood where the body is found or lying, to assemble at the place where the body is at such time as he shall direct, and upon a view of the body, to inquire into the cause and manner of the death.

§ 11. If a sufficient number of jurors so summoned do not attend, the coroner shall summon others from among the bystanders to make up the jury.

§ 12. Whoever, being so summoned as a juror, fails or refuses, without good cause, to attend at the time and place required, or appearing, refuses to act as such juror, or misbehaves while acting as such juror, shall, on complaint of the coroner before any justice of the peace in the county, be fined not less than three nor more than twenty dollars.

§ 13. When the jury are assembled the coroner shall appoint one of the number as foreman, and in view of the body, administer to him an oath or affirmation, in the following form, to wit:

"You, as foreman to this inquest, do solemnly swear (or affirm, as the case may require), that you will diligently inquire, and true presentment make, how, in what manner, and by whom or what, the body which here lies dead, came to its death; and that you will deliver to me the coroner of this county, a true inquest thereof, according to such evidence as shall be given you, and according to the best of your knowledge and belief; so help you God." And to the other jurors, one as follows, to wit: "The same oath which A B, your foreman, has just now taken on his part, you and each of you do solemnly swear (or affirm, as the case may require), to keep on your respective parts; so help you God."

§ 14. It shall be the duty of the jurors as sworn as aforesaid, to inquire how, in what manner, and by whom or what the said dead body came to its death, and of all other facts of and concerning the same, together with all material circumstances in anywise related to, or connected with the said death, and make up and sign a verdict, and deliver the same to the coroner.

§ 15. The coroner shall have power to summon, or cause to be summoned, and compel the attendance of all such witnesses whose testimony may probably be requisite to the proving of any fact or circumstance relating to the object of such his inquest, and to administer to such witnesses the proper oath.

§ 16. If the evidence of any witness shall implicate any person as the unlawful slayer of the person over whom the said inquisition shall be held, the coroner shall recognize such witness in such sum as he may think proper,

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to be and appear at the next term of the circuit court for the said county, there to give evidence of the matter in question, and not depart without leave, except that in the county of Cook the recognizance shall be to the criminal court of Cook county.

§ 17. If any witness shall refuse to enter into such recognizance, it shall be the duty of the coroner to commit the witness so refusing to the common jail of the county, there to remain until the next term of the said court; and the coroner shall carefully seal up and return to the clerk of the court the verdict of the jury, and the recognizances, and it shall be the duty of the clerk to carefully file and preserve the same.

§ 18. The coroner shall cause the testimony of each witness, who may be sworn and examined at any inquest, to be written out and signed by said witness, together with his occupation and place of residence, which testimony shall be filed with said coroner, in his office, and carefully preserved.

§ 19. Every coroner shall, at the expense of the county, be supplied with proper record books, wherein he shall enter the name, if known, of each person upon whose body an inquest shall be held, together with the names of the jurors comprising the jury, the names, residences, and occupations of the witnesses who are sworn and examined, and the verdict of the jury; in case the name of the person deceased is not known, the coroner shall make out a description of said person, and enter the same upon the record book to be so kept by him, together with all such facts and circumstances attending the death which may be known, and which may lead to the identification of the person; and shall carefully take an inventory of said person's personal effects and property of every kind and nature whatever, and state on his records what has been done with the same, and where the proceeds of any such property and the money and papers, if any, are deposited.

§ 20. When any valuable personal property, money or papers, are found upon or near the body upon which an inquest is held, the coroner shall take charge of the same and deliver the same to those entitled to its care or possession; but if not claimed, or if the same shall be necessary to defray the expenses of the burial, the coroner shall, after giving ten days' notice of the time and place of sale, sell such property, and after deducting the coroner's fees and funeral expenses, deposit the proceeds thereof, and the money and papers so found, with the county treasurer, taking his receipt therefor; there to remain subject to the order of the legal representatives of the deceased, if claimed within five years thereafter or if not claimed within that time to vest in the county.

§ 21. After the inquisition the coroner may deliver the body of the deceased to his friends, if there be any, but if not, he shall cause him to be decently buried, the expenses to be paid from the property of the deceased, if there is sufficient, if not, by the county.

§ 22. When any railroad company, stage or any steamboat, propeller or

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other vessel engaged in whole or in part in carrying passengers for hire, brings the dead body of any person into this state or any person dies upon any railroad car or any such stage, steamboat, propeller or other vessel in this state, or any person is killed by cars or machinery of any railroad company, or by accident thereto, or by accident to or upon any such stage, steamboat, propeller, or other vessel or by accident to, in or about any mine, mill or manufactory, the company or person owning or operating such cars, machinery, stage, steamboat, propeller or other vessel, mine, mill or manufactory shall be liable to pay the expenses of the coroner's inquest upon and burial of the deceased, and the same may be recovered in the name of the county in any court of competent jurisdiction.

§ 23. If a person implicated by the inquest as the unlawful slayer of the deceased, or as accessory thereto, is not in custody therefor, the coroner shall apprehend and commit, or cause to be apprehended and committed, to the county jail such person, there to remain until discharged by due course of law.

§ 24. In the absence of the coroner, any justice of the peace of the county, knowing or being informed of the finding of the dead body of any person, as aforesaid, shall have the like powers and discharge the same duties as are herein imposed upon the coroner, and shall be entitled to the same fees as the coroner for like services.

So much of chapter ninety-nine of the Revised Statutes of 1845, entitled "Sheriffs and Coroners," as refers to coroners and an act entitled "An act to provide for the burial of the dead occurring on railroads, and in or by vehicles carrying passengers," approved February 15, 1855; and an act entitled "An act to further define the duties of coroners," approved March 30, 1869, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

CORPORATIONS.

AN ACT TO AMEND SECTION THIRTY-ONE (31) OF "AN ACT CONCERNING CORPORATIONS," IN FORCE JULY 1, 1872.

Approved March 28, 1874. In force March 28, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* section thirty-one (31) of "An act concerning corporations," in force July 1, 1872, be and the same is hereby amended so as to read as follows:

Cities and Villages, Incorporation of.

“§ 31. Corporations, associations and societies not for pecuniary profit, formed under this act, shall be bodies corporate and politic, by the name stated in such certificate; and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; may have power to make and enforce contracts in relation to the legitimate business of their corporation, society or association; may have and use a common seal, and may change or alter the same at pleasure; and they and their successors, by their corporate name, shall, in law, be capable of taking, purchasing, holding and disposing of real and personal estate for purposes of their organization, may make by-laws, not inconsistent with the constitution and laws of this state or of the United States, in which by-laws shall be described the duties of all officers of the corporation, society or association, and the qualification of members thereof. Associations and societies which are intended to benefit the widows, orphans, heirs and devisees of deceased members thereof, and where no annual dues or premiums are required, and where the members shall receive no money as profit or otherwise, shall not be deemed insurance companies.”

Whereas many associations are desirous of organizing forthwith for the purpose aforesaid, whereby an emergency exists as a reason why this act should take effect forthwith; therefore, this act shall take effect from and after its passage.

AN ACT TO AMEND SECTIONS SIX (6), SEVEN (7), NINE (9), TWENTY-FOUR (24), TWENTY-SIX (26), AND FIFTY-THREE (53), OF ARTICLE NINE (9), OF AN ACT ENTITLED “AN ACT TO PROVIDE FOR THE INCORPORATION OF CITIES AND VILLAGES,” APPROVED APRIL 10, 1872.

Approved March 30, 1874. In force March 30, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That from section six (6), article nine (9), the words “or on due inquiry cannot be found” be stricken out, so that said section shall read, when so amended, as follows:

“§ 6. Upon the filing of the petition aforesaid, a summons which may be made returnable upon any day in term time, shall be issued and served upon the persons made parties defendant, as in cases in chancery. And in case any of them are unknown, or reside out of this state, the clerk of the court, upon an affidavit being filed showing such fact, shall cause publication to be made in some newspaper printed in his county, or, if there be no newspaper published in his county, then in some newspaper published in this state, containing notice of the pendency of such proceeding, the parties thereto, the title of the court, and the time and place of the return of the summons in the case, and the nature of said proceeding; such publication

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to be made for four weeks consecutively, at least once in each week, the first of which shall be at least thirty days before the return day of such summons. Notices so given by publication shall be sufficient to authorize the court to hear and determine the suit, as though all parties had been sued by their proper names and had been personally served."

That section seven (7), article nine (9), be amended so that the same, as amended, shall read as follows:

"§ 7. Upon the return of said summons, or as soon thereafter as the business of the court will permit, the said court shall proceed to the hearing of such petition, and shall impanel a jury to ascertain the just compensation to be paid to all of such owners and occupants aforesaid; but if any defendant or party in interest shall demand, or the court shall deem it proper, separate juries may be impaneled as to the compensation or damages to be paid to any one or more of such defendants or parties in interest."

That section nine (9), article nine (9), be amended so it will read, as amended, as follows:

"§ 9. The court may, upon the motion of such city or village, or of any person claiming any such compensation, direct that said jury (under the charge of an officer of the court,) shall view the premises which it is claimed by any party to said proceeding will be taken or damaged by said improvement, and in any case, where there is no satisfactory evidence given to the jury as to the ownership of, or as to the extent of the interest of any defendant in the property to be taken or damaged, the jury may return their verdict as to the compensation or damage to be paid for the property or part of property to be taken or damaged, and for the entire interests therein."

That section twenty-four (24), article nine (9), be amended so it will read, as amended, as follows:

"§ 24. It shall be the duty of such commissioners to examine the locality where the improvement is proposed to be made, and the lots, blocks, tracts and parcels of land that will be specially benefited thereby, and to estimate what proportion of the total cost of such improvement will be of benefit to the public, and what proportion thereof will be of benefit to the property to be benefited; and apportion the same between the city or village and such property, so that each shall bear its relative equitable proportion; and having found said amounts, to apportion and assess the amount so found to be of benefit to the property upon the several lots, blocks, tracts and parcels of land in the proportion in which they will be severally benefited by such improvement: *Provided*, that no lot, block, tract or parcel of land shall be assessed a greater amount than it will be actually benefited: *And provided, further*, that it shall not be necessary for said commissioners to examine the locality except where the ordinance provides for the opening, widening or improvement of streets and alleys."

That section twenty-six (26), of article nine (9), be amended so it will read, as amended, as follows:

 Cities and Villages, Incorporation of.

"§ 26. They shall also make or cause to be made an assessment roll, in which shall appear the names of the owners, so far as known, a description of each lot, block, tract or parcel of land, and the amount assessed as special benefits thereto; and in which they shall set down as against the city or village the amount they shall have found as public benefit, and certify such assessment roll to the court by which they were appointed, at least ten days before the first day of the term at which a final hearing thereon shall be had."

That section fifty-three (53), article nine (9), be amended so it will read, as amended, as follows:

"§ 53. Whenever any city or village shall apply to any court for the purpose of making just compensation for property taken or damaged by such proceedings as are authorized by this act, such city or village may file in the same proceeding a supplemental petition, praying the court to cause that an assessment be made for the purpose of raising the amount necessary to pay the compensation and damages which may be, or shall have been awarded for the property taken or damaged, with the costs of the proceeding. The said court shall have power, at any time after any such supplemental petition shall have been filed, to appoint three commissioners to make such assessment, and to ascertain, as near as may be, the costs incurred to the time of such appointment, and the probable further costs of the proceedings, including therein the estimated costs of making and collecting such assessment, and shall direct such costs to be included by said commissioners in making said assessment. Like proceedings in making said assessment shall be had, and the assessment shall be made, collected and enforced in the same manner, as near as may be, as is provided in this article in other cases."

§ 2. Whereas, it is important that all incorporated cities in this state shall have power to proceed with needed improvements at as early a date as practicable, an emergency has arisen requiring this act to take effect immediately; therefore this act shall be in force from and after its passage.

AN ACT TO ENABLE THE CORPORATE AUTHORITIES NOW OR HEREAFTER INCORPORATED UNDER AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION OF CITIES AND VILLAGES," IN FORCE JULY 1, 1872, TO ACQUIRE BY PURCHASE, LEASE OR GIFT, ESTABLISH, MAINTAIN, LICENSE AND REGULATE FERRIES, BRIDGES, THE APPROACHES THERETO AND TOLLS THEREON.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That it shall be lawful for the corporate authorities of any city or village now or hereafter incorporated under an act entitled "An act to provide for the incorporation of cities and villages," in force July

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1, 1872, to acquire by purchase, lease or gift, and maintain, license and regulate ferries and bridges so acquired, and the approaches thereto, not to exceed four acres of land for each ferry or bridge, within the corporate limits, or within five miles of the corporate limits thereof, and from time to time fix the tolls thereon.

AN ACT TO AMEND SECTIONS SIX AND SEVEN, OF ARTICLE FOUR OF AN ACT ENTITLED "AN ACT TO PROVIDE FOR THE INCORPORATION OF CITIES AND VILLAGES," IN FORCE JULY 1, 1872.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That sections six (6) and seven (7) of article four, of an act entitled "An act to provide for the incorporation of cities and villages," be amended so as to read as follows :

"§ 6. Whenever this act shall be submitted to the qualified electors of any city for adoption, there shall be submitted at the same time, for adoption or rejection, the question of minority representation in the city council or legislative authority of such city. At the said election the ballots shall be in the following form : "For minority representation in the city council," or "Against minority representation in the city council." And at any subsequent time, on petition of the legal voters equal in number to one-eighth the number of legal votes cast at the next preceding general city election, the city council shall cause the question of minority representation to be submitted to the legal voters of said city, and the ballots shall be in form as provided in this section : *Provided*, that no such question of representation shall be submitted more than once in every two years. The judges of such election shall make returns thereof to the city council, whose duty it shall be to canvass such returns, and to cause the result of such canvass to be entered on the record of such city. If a majority of the votes cast at such election shall be "For equal representation in the city council," then the members of the city council or legislative authority of such city, shall be thereafter elected in the following manner : The council or legislative authority of such city, at least one month before the general election in the year in which this act shall take effect in such city, shall apportion such city, by dividing the population thereof, as ascertained by the last federal census, by any number not less than two nor more than six, and the quotient shall be the ratio of representation in the city council. Districts shall be formed of contiguous and compact territory, and contain, as nearly as practicable, an equal number of inhabitants.

"§ 7. Every such district shall be entitled to three aldermen, who shall hold their office for two years, and until their successors shall be elected and

Streets, Alleys, and Public Grounds.

qualified : *Provided*, that those elected at the first election from the wards bearing odd numbers, shall only hold their office for one year, and until their successors shall be elected and qualified. Vacancies occurring by the expiration of term, shall be filled by the election of aldermen for the full term of two years. Vacancies arising from any other cause than the expiration of term, shall be filled at an election to be held by the voters of the district in which such vacancy shall occur, at the time designated by the city council. In all elections for aldermen aforesaid, each qualified voter may cast as many votes as there are aldermen to be elected in his district, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit, and the candidate highest in votes shall be declared elected."

AN ACT TO REVISE THE LAW IN RELATION TO THE VACATION, OF
STREETS, ALLEYS AND PUBLIC GROUNDS.

Approved March 24, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That no city council of any city, or board of trustees of any village or town, whether incorporated by special act or under any general law, shall have power to vacate or close any street or alley, or any portion of the same, except upon a three-fourths majority of all the aldermen of the city or trustees of the village or town authorized by law to be elected ; such vote to be taken by ayes and noes, and entered on the records of the council or board. And when property is damaged by the vacation or closing of any street or alley, the same shall be ascertained and paid as provided by law.

§ 2. When any street, alley, lane or highway, or any part thereof has been or shall be vacated under or by virtue of any act of this state or by order of the city council of any city or trustees of any village or town, or by the commissioners of highways, county board, or other authority authorized to vacate the same, the lot or tract of land immediately adjoining on either side shall extend to the central line of such street, alley, lane or highway or part thereof so vacated, unless otherwise specially provided in the act, ordinance or order vacating the same ; unless in consequence of more of the land for such street, alley, lane or highway having been contributed from the land on one side thereof than the other, such division is inequitable, in which case the street, alley, lane or highway so vacated shall be divided according to the equities of the adjoining owners.

COSTS.

AN ACT TO REVISE THE LAW IN RELATION TO COSTS.

Approved February 11, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That in all actions in any court of record on official bonds for the use of any person; actions on the bonds of executors, administrators or guardians; qui tam actions; actions on a penal statute; and in all cases in law or equity, where the plaintiff, or person for whose use an action is to be commenced, shall not be a resident of this state, the plaintiff, or person for whose use the action is to be commenced, shall, before he institutes such suit, file, or cause to be filed, with the clerk of the court in which the action is to be commenced, security for costs, substantially in the following form:*

A. B. }
vs. }
 C. D. } (Title of Court.)

"I, (E. F.), do enter myself security for all costs which may accrue in the above cause.

Dated this day of, A. D. 18..... (Signed) E. F."

§ 2. Such instrument shall be signed by some responsible person, being a resident of this state, to be approved by the clerk, and shall bind such person to pay all costs which may accrue in such action, either to the opposite party or to any of the officers of the court in which the action is commenced, or to which it is removed by change of venue or appeal.

§ 3. If any such action shall be commenced without filing such instrument of writing, the court, on motion, shall dismiss the same, and the attorney of the plaintiff shall pay all costs accruing thereon, unless the security for costs shall be filed within such time as shall be allowed by the court, and when so filed it shall relate back to the commencement of the suit; the right to require security for costs shall not be waived by any proceeding in the cause.

§ 4. If, at any time after the commencement of any suit by a resident of this state, he shall become non-resident; or, if in any case the court shall be satisfied that any plaintiff is unable to pay the costs of suit, or that he is so unsettled as to endanger the officers of the court, with respect to their legal demands, it shall be the duty of the court, on motion of the defendant or any officer of the court, to rule the plaintiff on or before a day, in such rule named, to give security for the payment of costs in such suit; if such plaintiff shall neglect or refuse, on or before the day in such rule named, to file an

Commencement of Actions.

instrument of writing of some responsible person, being a resident of this state, whereby he shall bind himself to pay all costs which have accrued, or may accrue in such action, the court shall, on motion, dismiss the suit: *Provided*, that the defendant or officer making such motion, shall file therewith his affidavit or the affidavit of some credible person, stating that he has reason to believe, and does believe, that in case such suit is prosecuted to a conclusion, a judgment will be rendered against such plaintiff for such costs.

§ 5. If any court shall, before or after the commencement of any suit, be satisfied that the plaintiff is a poor person, and unable to prosecute his suit and pay the costs and expenses thereof, the court may, in its discretion, permit him to commence and prosecute his action, as a poor person; and thereupon such person shall have all the necessary writs, processes and proceedings, as in other cases, without fees or charge. The court may assign to such person counsel, who, as well as all other officers of the court, shall perform their duties in such suit without any fees, charge or reward. If judgment be entered for the plaintiff, there shall be judgment for his costs; which costs shall be collected for the use of the said officers.

§ 6. If, prior to the convening of any term of any court of record, a person desiring to commence suit in such court shall file with the clerk thereof an affidavit, stating that he is a poor person and unable to pay costs, and that his cause of action is meritorious, such clerk shall issue and the sheriff shall serve all necessary process without requiring costs: *Provided*, if judgment shall be entered against such plaintiff, it shall be for costs, unless the court shall otherwise order.

§ 7. If any person shall sue in any court of this state in any action, real, personal or mixed, or upon any statute, for any offense or wrong immediately personal to the plaintiff, and shall recover any debt or damage in such action, then the plaintiff or demandant shall have judgment to recover costs against the defendant, to be taxed; and the same shall be recovered, together with the debt or damages, by execution, except in the cases hereinafter mentioned.

§ 8. If any person shall sue in any court of record of this state, in any action, wherein the plaintiff or demandant might have costs in case judgment be given for him, and he be non-pros'd, or suffer a discontinuance, or be non-suited after appearance of the defendant, or a verdict pass against him, then the defendant shall have judgment to recover his costs against the plaintiff (except against executors or administrators prosecuting in the right of their testator or intestate) or demandant, to be taxed, and the same shall be recovered of the plaintiff or demandant, by like process as the plaintiff or demandant might have had against the defendant, in case judgment had been given for such plaintiff or demandant.

§ 9. Any person making avowry, justification or cognizance in replevin, if the same be found for him, or the plaintiff be non-suited or non-pros'd, suffer a discontinuance, or be otherwise barred, then such person shall recover his damages and costs against the plaintiff, in like manner as the

Costs.

plaintiff would have done, if the same had been found against the defendant.

§ 10. If, in any action, judgment upon any demurrer, by either party to the action, shall be given against the plaintiff or demandant, the defendant shall recover costs against the plaintiff or demandant. If such judgment be given for the plaintiff or demandant, he shall recover costs against the defendant; and the person so recovering costs, shall have execution for the same.

§ 11. Where any defendant in any action, or plaintiff in replevin, shall plead several matters, and any of such matters, upon demurrer joined, shall be adjudged insufficient, or if a verdict shall be found, in any issue of the cause, for the plaintiff or demandant, costs shall be given at the discretion of the court.

§ 12. Where there are several counts in any declaration, and any one of them be adjudged insufficient, or a verdict on any issue joined thereon shall be found for the defendant, costs shall be awarded in the discretion of the court.

§ 13. Where several persons are made defendants to any action, and any one or more of them shall, upon the trial, be acquitted by verdict, every person acquitted shall recover his costs of suit, in like manner as if such verdict of acquittal had been given in favor of all the defendants.

§ 14. In all suits upon any writ of *scire facias*, or upon prohibition, the plaintiff obtaining judgment, or an award of execution, after plea pleaded, or demurrer joined therein, shall recover his costs of suit; if the plaintiff shall be non-suited, non-pros'd, or suffer a discontinuance, or a verdict shall pass against him, the defendant shall recover his costs.

§ 15. The court may limit the number of witnesses whose fees are to be taxed against any party to such number, not less than two, as shall appear to the court to have been necessary.

§ 16. In all cases, where any action shall be dismissed for irregularity, or be non-pros'd or non-suited, by reason that the plaintiff neglects to prosecute the same, the defendant shall have judgment for his costs, to be taxed, and have execution therefor.

§ 17. In all suits and actions commenced or to be commenced for and on behalf of the people of this state, or the governor thereof, or for or on behalf of any county of this state, or in the name of any person for the use of the people of this state, or any county, then and in every such case, if the plaintiff shall recover any debt or damages in such action or suit, the plaintiff shall recover costs as any other person in like cases; but if such plaintiff suffer a discontinuance, or be non-suited or non-pros'd, or verdict pass against such plaintiff, the defendant shall not recover any costs whatever. Nothing in this section contained shall extend to any popular action, nor to any action to be prosecuted by any person in behalf of himself and the people or a county, upon any penal statute.

Judgment. - - - Appeal.

§ 18. Upon the complainant dismissing his bill in equity, or the defendant dismissing the same for want of prosecution, the defendant shall recover against the complainant full costs; and in all other cases in chancery, not otherwise directed by law, it shall be in the discretion of the court to award costs or not; and the payment of costs, when awarded, may be compelled by execution.

§ 19. When judgment for costs is given against a plaintiff suing for the use of another, such judgment shall also be against the person for whose use the suit is brought, in like manner as if he had been a joint plaintiff, and the same may be enforced by execution as other judgments for costs.

§ 20. In all cases of appeal or *certiorari* upon the judgments of justices of the peace, when the judgment of the justice of the peace shall be wholly affirmed or reversed, the party succeeding shall recover from the opposite party his costs, not only in the appellate court but before the justice of the peace, and shall have his execution therefor; where the judgment of the justice of the peace shall be affirmed in part, or where the defendant shall not have appeared and defended in the case before the justice of the peace, then the court may divide the costs between the parties, according to the justice of the case.

§ 21. In all cases of appeal from the decision of a county court in matters of probate, and administration of estates and matters concerning guardians and wards, the costs shall be in the discretion of the appellate court; in all other cases costs shall be awarded as in appeals from justices of the peace.

§ 22. If any person shall sue out a writ of error, or take an appeal to the supreme court, to review the judgment of any other court, and the same judgment be affirmed, or the writ of error be discontinued or quashed, or the plaintiff in error or appellant be non-suited, the defendant in error or appellee shall recover his costs, and have execution therefor; and if the judgment be reversed, the appellant or plaintiff in error shall recover his costs, and shall have execution therefor, as in other cases.

§ 23. In every such case, if the judgment or decree be affirmed in the whole, the party prosecuting such writ of error or appeal shall pay to the opposite party a sum not exceeding ten per centum on the amount of the judgment or decree so attempted to be reversed, at the discretion of the court, and in addition to the costs, shall have judgment and execution therefor: *Provided*, the supreme court shall be of opinion that such appeal or writ of error was prosecuted for delay.

§ 24. Where such judgment or decree shall be reversed in part, and affirmed in part, the costs shall be apportioned between the parties, according to the discretion of the supreme court.

§ 25. The clerk of any court in this state is hereby authorized and required to tax and subscribe all bills of costs arising in any cause or proceeding instituted in the court of which he is clerk, agreeably to the rates

Costs.

which shall, for the time being, be allowed or specified by law; and shall in no case allow any item or charge unless he shall be satisfied that the service for which it was made was actually performed in the cause.

§ 26. If any person shall feel himself aggrieved by the taxation of any bill of costs by the clerk, he may apply to the court in which the action or proceeding was had to re-tax the same, according to law. If the said court shall find any charge allowed for services not performed, or for which the person charged is not liable, or any item charged higher than by law is allowed, then the court shall correct such taxation; and if the party aggrieved shall have paid such unlawful charge, the clerk shall forfeit all fees allowed to him for taxation; and shall pay to the party aggrieved the whole amount which he may have paid by reason of the allowing of such unlawful charge.

§ 27. When execution has been issued for any fee bill, the party aggrieved may replevy the same by giving to the officer having the execution, bond with sufficient sureties, to be approved by such officer in double the amount of such fee bill, conditioned for the payment of such fee bill if the same shall not be quashed; and upon the receiving of such bond, such officer shall return the fee bill and bond to the next term of the court. And if it appears to the court that any item or charge contained in such fee bill is not authorized by law, or is for services not actually rendered, or any item is charged higher than is allowed by law, the court shall proceed to quash such fee bill and bond, and to correct the taxation of the costs for which such fee bill was issued, and upon such correction being made, such costs may be collected by fee bill and execution as in other cases.

§ 28. In all cases where either party shall be adjudged to pay costs before final judgment, by reason of setting aside a non-suit, default or non-pros', or the granting of a continuance or new trial, or otherwise, and in all cases where there is security for costs, or attorney liable for costs, or an action brought to the use of another, and the plaintiff shall be adjudged to pay the costs, either before or upon final judgment, it shall be lawful for the clerk to make out and tax a bill of costs so adjudged to be paid, against the party adjudged to pay the same, and against his security for costs, or other person liable for the payment thereof, or either of them, and certify the same under the seal of the court, which being delivered to the sheriff of the proper county, he shall demand payment from the person therein charged; if payment shall not be made accordingly, within thirty days after such demand, the sheriff shall levy the same on the goods and chattels, lands and tenements of the person so chargeable, and proceed therein in all things as on a writ of *fieri facias*.

COURTS.

AN ACT TO AMEND "AN ACT CONCERNING CIRCUIT COURTS AND TO FIX THE TIMES OF HOLDING THE SAME IN THE SEVERAL COUNTIES OF THE JUDICIAL CIRCUITS IN THE STATE OF ILLINOIS, EXCLUSIVE OF COOK," APPROVED MAY 2, 1873.

Approved March 23, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* paragraph twenty-one of section one of an act entitled "An act concerning circuit courts and to fix the times for holding the same in the several counties in the judicial circuits in the state of Illinois, exclusive of the county of Cook," be and the same is hereby amended so as to read as follows:

"Twentieth Circuit.—In the county of Christian, on the first Tuesday of February and third Tuesday of August; in the county of Montgomery, on the seventh Tuesday after the first Tuesday of February, and on the twelfth Tuesday after the third Tuesday of August; in the county of Fayette, on the third Tuesday after the first Tuesday in February, and the fourth Tuesday after the third Tuesday in August; in the county of Shelby, on the second Tuesday of May, and on the eighth Tuesday after the third Tuesday of August."

AN ACT TO AMEND AN ACT ENTITLED "AN ACT CONCERNING CIRCUIT COURTS, AND TO FIX THE TIMES FOR HOLDING THE SAME IN THE SEVERAL COUNTIES IN THE JUDICIAL CIRCUITS IN THE STATE OF ILLINOIS, EXCLUSIVE OF THE COUNTY OF COOK," APPROVED MAY 2, 1873.

Approved March 26, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* the nineteenth (19) paragraph of an act entitled "An act concerning circuit courts, and to fix the times for holding the same in the several counties in the judicial circuits in the State of Illinois, exclusive of the county of Cook," approved May 2, 1873, be and the same is hereby amended so as to read as follows:

Eighteenth Circuit.—In the county of Cass, on the first Monday of February and third Monday of August; in the county of Greene, on the fourth Monday of February and first Monday of September; in the county of Jersey, on the third Monday of March and fourth Monday of September; in the county of Calhoun, on the second Mondays of April and October; in

 Jurisdiction of County Courts. - - - Practice.

the county of Scott, on the fourth Mondays of April and October; in the county of Morgan, on the second Mondays of May and November.

Summer Term—In the county of Morgan on the first Monday of August. This August term shall be devoted exclusively to the impaneling of a grand jury, the trial of criminal cases, and the transaction of any business in civil and chancery cases not requiring a jury, or when a jury may be waived.

Twenty-third Circuit—In the county of Marion, on the second Monday of February and the second Monday of August; in the county of Monroe, on the first Mondays of March and September; in the county of Randolph, on the second Mondays thereafter; in the county of Washington, on the third Mondays thereafter; in the county of Perry, on the third Mondays thereafter; in the county of Clinton, on the second Monday thereafter.

AN ACT TO FIX THE TERMS OF THE COURTS OF COOK COUNTY.

Approved February 9, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the terms of the circuit court of Cook county shall commence on the third Monday of every month. That the terms of the superior court of Cook county shall commence on the first Monday of every month. That the terms of the criminal court of Cook county shall commence on the first Monday of every month.

AN ACT TO EXTEND THE JURISDICTION OF COUNTY COURTS, AND TO PROVIDE FOR THE PRACTICE THEREOF, TO FIX THE TIME FOR HOLDING THE SAME, AND TO REPEAL AN ACT THEREIN NAMED.

Approved March 26, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That there shall be in each of the counties of this state, now created and organized, or which may hereafter be created or organized, a court of record, to be styled "The County Court of..... County." Said court shall have a seal.

§ 2. Said courts shall sit in the court houses or usual places of holding courts in the several counties of this state, or in suitable rooms provided therefor at the county seat.

§ 3. The county judge in each county shall be elected on the Tuesday after the first Monday in November in the year 1877, and on the Tuesday

after the first Monday in November every fourth year thereafter and shall, enter upon the duties of his office on the first Monday of December after his election, and shall hold his office for four years and until his successor is elected and qualified.

§ 4. The county judge shall, before entering upon the duties of his office, take and subscribe, and file with the secretary of state, the following oath :

"I do solemnly swear (*or affirm, as the case may be*), that I will support the constitution of the United States, and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of county judge according to the best of my ability."

§ 5. County courts shall have jurisdiction in all matters of probate, settlements of estates of deceased persons, appointment of guardians and conservators, and settlements of their accounts; all matters relating to apprentices; proceedings for the collection of taxes and assessments; and in proceedings by executors, administrators, guardians and conservators for the sale of real estate for the purposes authorized by law, and such other jurisdiction as is or may be provided by law. All of which, except as hereinafter provided, shall be considered as probate matters, and be cognizable at the probate terms hereinafter mentioned.

§ 6. The terms of the county court for probate matters shall commence on the third Monday of each month during the year, except the months prescribed in this act for the holding of law terms, and shall be always open for the granting of letters testamentary and guardianship, and for the transaction of probate business, and hearing applications by insolvent debtors for discharge from arrest or imprisonment, and all matters cognizable at the probate terms shall also be cognizable at the law terms.

§ 7. The county courts shall have concurrent jurisdiction with the circuit courts in all that class of cases wherein justices of the peace now have or may hereafter have jurisdiction where the amount claimed or the value of property in controversy shall not exceed five hundred dollars, and in all criminal offenses and misdemeanors where the punishment is not imprisonment in the penitentiary or death, all of which shall be cognizable at the law terms hereinafter mentioned: *Provided*, no appeals shall be allowed from justices of the peace to the county courts.

§ 8. The law terms of the county court, except as otherwise hereinafter provided, shall commence on the second Monday of the months as follows, to-wit: In the counties of—

- § 9. Adams, in January and August.
- § 10. Alexander, in March, July and November.
- § 11. Bond, in January, June and November.
- § 12. Boone, in April and November.
- § 13. Brown, in January and June.
- § 14. Bureau, in January, June and October.

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- § 15. Calhoun, in January and June.
- § 16. Carroll, in February, June and November.
- § 17. Cass, in April and October.
- § 18. Champaign, in January, May and August.
- § 19. Christian, in April, June, October and December.
- § 20. Clark, in January, June and September.
- § 21. Clay, in January and July.
- § 22. Clinton, in February and August.
- § 23. Coles, in March and July.
- § 24. Cook, in January, March, June and October.
- § 25. Crawford, in January and June.
- § 26. Cumberland, in October.
- § 27. DeKalb, in April, July and December.
- § 28. DeWitt, in January and June.
- § 29. Douglas, in January and July.
- § 30. Du Page, in January and June.
- § 31. Edgar, in June and December.
- § 32. Edwards, in January and July.
- § 33. Effingham, in June.
- § 34. Fayette, in June and December.
- § 35. Ford, in February and June.
- § 36. Franklin, in January and June.
- § 37. Fulton, in February and October.
- § 38. Gallatin, in January and June.
- § 39. Greene, in January, June and November.
- § 40. Grundy, in January, June and September.
- § 41. Hamilton, in June and December.
- § 42. Hancock, in April, July and December.
- § 43. Hardin, in February and July.
- § 44. Henderson, in April and October.
- § 45. Henry, in April and December.
- § 46. Iroquois, in January, May and October.
- § 47. Jackson, in January, May and November.
- § 48. Jasper, in February.
- § 49. Jefferson, in January, June and November.
- § 50. Jersey, in January and June.
- § 51. Jo Daviess, in April and December.
- § 52. Johnson, in March and September.
- § 53. Kane, in June, September and December.
- § 54. Kankakee, in February, July and November.
- § 55. Kendall, in March, September and December.
- § 56. Knox, in April, August and December.
- § 57. Lake, in January and June.
- § 58. LaSalle, in March, September and December.

County Courts. - - - Law Terms.

- § 59. Lawrence, in December.
- § 60. Lee, in December.
- § 61. Livingston, in March, June, September and December.
- § 62. Logan, in March, August and November.
- § 63. McDonough, in January and September.
- § 64. McHenry, in March and November.
- § 65. McLean, in January, April, August and October.
- § 66. Macon, in February and October.
- § 67. Macoupin, in June.
- § 68. Madison, in February and August.
- § 69. Marion, in April and November.
- § 70. Marshall, in March and August.
- § 71. Mason, in January, June and October.
- § 72. Massac, in February and July.
- § 73. Menard, in January, May and September.
- § 74. Mercer, in January.
- § 75. Monroe, in January, June and November.
- § 76. Montgomery, in January, May and September.
- § 77. Morgan, on the second Monday in January, and on the third Mondays in April and September.
- § 78. Moultrie, in January and June.
- § 79. Ogle, in June.
- § 80. Peoria, in January, April and September.
- § 81. Perry, in January, June and November.
- § 82. Piatt, in June and November.
- § 83. Pike, in January, July and November.
- § 84. Pope, in February and July.
- § 85. Pulaski, in June.
- § 86. Putnam, in July and December.
- § 87. Randolph, in January and June.
- § 88. Richland, in January and July.
- § 89. Rock Island, in March, July and November.
- § 90. St. Clair, in March, July and November.
- § 91. Saline, in February, May, August and October.
- § 91½. Sangamon, in March, June and September.
- § 92. Schuyler, in February and August.
- § 93. Shelby, in January, April, July and September.
- § 94. Scott, in February and August.
- § 95. Stark, in June and December.
- § 96. Stephenson, in February, May and October.
- § 97. Tazewell, in January, April and October.
- § 98. Union, in January, May, July and November.
- § 99. Vermilion, in January, April and October.
- § 100. Wabash, in January and July.

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- § 101. Warren, in March and August.
- § 102. Washington, in January and July.
- § 103. Wayne, in January and July.
- § 104. White, in February and August.
- § 105. Whiteside, in June.
- § 106. Will, in March, July, September and November.
- § 107. Williamson, in January, April, July and November.
- § 108. Winnebago, in March and November.
- § 109. Woodford, in February and October.
- § 109½. The court shall continue open from day to day until all business before it is disposed of.

§ 110. Unless the court shall otherwise order, the jury for the law terms of the county court shall be drawn and summoned in the same manner as is provided for the drawing and summoning juries for the terms of the circuit court. When a jury is not summoned as above provided, it shall be the duty of said court, on the first day of each term thereof, to call all the cases for trial on the docket, to ascertain whether a jury will be required. If a jury shall be demanded by either party to any suit pending, or by any defendant or the state's attorney in any criminal suit, the court shall thereupon set such case or cases for trial, and direct the clerk of said court to issue a *venire* for twelve competent jurors, unless the parties to such suit or criminal proceeding shall elect to have the same tried by six jurors, and deliver the same to the sheriff or coroner, who shall summon such jurors from the body of the county to be and appear before said court at the term set for the return of said *venire*; and if, by reason of non-attendance, challenge or otherwise, said jury shall not be full, the panel may be filled by talesmen. Said court shall have the same power to compel the attendance of jurors and witnesses as the circuit court has, and shall be governed by the same rules in impaneling the jury. Said court may retain such jury for all the jury trials of said term. The per diem and mileage of said jurors shall be the same as they are for similar services in the circuit court, to be paid out of the county treasury upon the certificate of the county clerk: *Provided*, that in case the sheriff, coroner or bailiff be interested in any jury case pending, or in case any party interested, or any attorney, may object to any sheriff, coroner or bailiff selecting the jury, if the court shall think such objection reasonable, the court shall appoint an impartial bailiff to summon such jury.

§ 111. The court shall have the power to impanel a jury in any case cognizable at the probate terms as well as at the law terms, whenever it shall be necessary for the trial of any matter pending before the court.

§ 112. The process, practice and pleadings in said court in common law cases, shall be the same as in the circuit court in similar cases, and the process, orders and judgments of said court shall have the same forms, force, lien and effect as in like cases in the circuit court; and the clerk of said

county court shall charge and collect like fees as the clerk of the circuit court for similar services. Process in cases cognizable at the law terms of the county court shall be made returnable at the law terms.

§ 113. The sheriff, in person or by his deputy, shall attend the sittings of the county court of his county, preserve order in the same, and execute the legal commands and process thereof: *Provided*, that the sheriff shall receive pay for attending upon the sittings of said court only when requested so to do by the court.

§ 114. Whenever the county judge of any county is interested in the estate of any deceased person, and the letters testamentary or of administration shall be grantable in the county of such judge, such facts shall be entered upon the records of such court and certified to the circuit court of such county: *Provided*, that in case the judge is interested only as a creditor, no change need be made except in relation to his claim.

§ 115. Upon the filing of a copy of such certificate with the clerk of the circuit court, such court shall have full and complete jurisdiction in all matters pertaining to such estate, and may make all orders and take all proceedings therein which might have been made or taken in the county court if the judge thereof had not been interested.

§ 116. In all cases transferred to the circuit court under the two preceding sections, the clerk of such court shall have the same authority to grant citations and letters testamentary and of administration in vacation as is given to clerks of the county courts.

§ 117. All offenses cognizable in county courts shall be prosecuted by information of the state's attorney, attorney general or some other person, and when an information is presented by any person other than the state's attorney or attorney general, it shall be verified by affidavit of such person that the same is true, or that the same is true as he is informed and believes. Before an information is filed by any person other than the state's attorney or attorney general, the judge of the court shall examine the information, and may examine the person presenting the same, and require other evidence and satisfy himself that there is probable cause for filing the same and so indorse the same. Every information shall set forth the offense with reasonable certainty, substantially as required in an indictment, and may be filed either in term time or in vacation, and the proceedings thereon shall be the same, as near as may be, as upon indictment in the circuit court, except as herein otherwise provided. Nothing in this act shall be construed to affect the jurisdiction of justices of the peace.

§ 118. The court in term time, or the judge in vacation, shall fix the amount of bail to be required of the accused, and the clerk shall endorse the same upon the capias, except that when the capias is issued in term time, the same may be made returnable forthwith, when it shall not be necessary to fix the amount of bail until the accused is brought into court.

§ 119. The court may receive the plea of guilty and pass judgment, or,

if the accused will waive a jury and be tried by the court without a jury, the court may, upon notice being first given to the state's attorney, try the cause and pass judgment as well at a probate as a law term of said court.

§ 120. When the grand jury of the circuit court shall indict for offenses cognizable in the county court, such indictments may, in the discretion of said circuit court, be certified under the seal thereof to the county court for process and trial, which process shall be the same as like process in the circuit court.

§ 121. In certifying indictments from the circuit court to the county court, the clerk of the circuit court may use the following form, substantially:

STATE OF ILLINOIS, }
County of..... } ss.

"I,....., clerk of the circuit court, in and for the county of....., aforesaid, do certify that the within bill of indictment was, on the.....day of....., duly presented in open court by the grand jury of said county, and being duly examined by the said circuit court, it was ordered by the court that the same be certified by the clerk of the circuit court to the county court for process and trial, which is done accordingly."

Which certificate, when indorsed on the back of any indictment, shall be sufficient to warrant a trial and conviction of any party charged in any indictment so certified, and shall be deemed a sufficient record to authorize the county court to try the party so indicted: *Provided*, either party may ask for and obtain a rule on the clerk of the circuit court for a complete record, duly and properly certified, of any cause pending in the county court having been certified as aforesaid; and it shall be the duty of the clerk of the circuit court to obey any rule of the county court for the purpose aforesaid, and when a complete record shall be so certified to the county court, said court shall be governed thereby in all respects in all its proceedings.

§ 122. Appeals may be taken from the final orders, judgments and decrees of the county courts to the circuit courts of their respective counties in all matters except as provided in the following section, upon the appellant giving bond and security in such amount and upon such conditions as the court shall approve, except as otherwise provided by law. Upon such appeal, the case shall be tried *de novo*.

§ 123. Appeals and writs of error may be taken and prosecuted from the final orders, judgments and decrees of the county court to the supreme court in proceedings for the sale of land for taxes and special assessments, and on the application of executors, administrators, guardians and conservators for the sale of real estate. Such appeals and writs of error shall, when not otherwise provided, be taken and prosecuted in the same manner as appeals from and writs of error to circuit courts.

In all appeals in criminal cases, the court shall fix the amount of the

County Courts. - - - Act of 1872 Repealed.

recognizance, and when the same is executed, the defendant shall be discharged from imprisonment until otherwise ordered by the appellate court, on the dismissal or trial of the appeal; and the securities may deliver their principal, and be subject to liabilities, to be enforced as in other cases of recognizance.

§ 124. The several county courts shall have the power to hear and determine all causes pending in such courts at the time this act shall take effect, and to enforce all judgments, orders and decrees entered therein, or in any cause of which they may have had jurisdiction previous to the taking effect of this act. Appeals and writs of error may be prosecuted from such judgments, orders and decrees.

§ 125. An act entitled "An act to increase the jurisdiction of county courts," in force July 1, 1872, is hereby repealed: *Provided*, that nothing herein contained shall be construed to affect any rights or remedies that may have accrued under said act hereby repealed. Nor shall any suit or proceeding pending in the county court under the act hereby repealed be abated by such repeal, and all such suits or proceedings pending, when this act takes effect, shall stand continued to the first term of court to be held under the provisions of this act.

AN ACT IN RELATION TO COURTS OF RECORD IN CITIES.

Approved March 26, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* The several courts of record now existing in and for cities, and such as may hereafter be established by law, in and for any city in this state, shall severally be styled "The City Court of (name of city)," and shall have concurrent jurisdiction with the circuit courts within the city in which the same may be, in all civil cases, and in all criminal cases except treason and murder, and in appeals from justices of the peace in said city; and the course of proceedings and practice in such courts shall be the same as in the circuit courts, so far as may be.

§ 2. Such courts shall have a seal, and may from time to time, as may be necessary, renew the same; the expense of such seal, and renewing the same, shall be paid by the city in which such court is or may be established.

§ 3. Such courts shall be held at such place in said city as may be provided by the corporate authorities thereof; but if such place shall become unfit, or if no place shall be provided by such authorities, the court may, by an order to be entered of record, adjourn to or convene at a suitable place for the holding of a court within said city, and at such place may hold said court until a suitable place therefor be furnished by such corporate authorities, the expense whereof shall be borne by said city.

§ 4. All blanks, books, papers, stationery and furniture necessary to the keeping of a record of the proceedings of such court, and the transaction of the business thereof, shall be furnished the officers of such court by the corporate authorities, at the expense of the city.

§ 5. The judges of such courts, respectively, shall be elected by the qualified voters of such city in the same manner that the city officers of such city are elected, but not at the same time, and shall hold their offices for the term of four years and until their successors are elected and qualified. They shall qualify and be commissioned in the same manner, be vested with the same powers, perform the same duties, and be subject to the same limitations as circuit judges, and be styled "Judge of the City Court of (name of city)." Vacancies in such office shall be filled, for the unexpired term, at a special election to be called and held by the same authority, and in the same manner that other city elections may be held, where such unexpired term exceeds one year; but where the same does not exceed one year, such vacancy shall be filled by appointment by the governor.

§ 6. Such judges, with like privileges as circuit judges, may interchange with each other, and with the judges of circuit courts, and may hold court for each other, and perform each other's duties when they find it necessary or convenient.

§ 7. There shall be elected, in like manner as judges are elected, for each of such courts, a clerk, who shall hold his office for the term of four years, and until his successor shall be elected and qualified. He shall be commissioned, have the same powers, perform the same duties, be subject to the same liabilities, and be entitled to like fees as are now, or may hereafter, from time, be provided by law in regard to circuit clerks, in the county in which such city may be situate. Vacancies in such office shall be filled, for the unexpired term, at a special election, to be called and held by the same authority, and in the same manner that other city elections may be held, where such unexpired term exceeds one year; but where the same does not exceed one year, such vacancy shall be filled by the court: *Provided*, that a clerk, *pro tempore*, may be appointed by the judge thereof, when necessary.

§ 8. The sheriff and state's attorney of the county in which such city may be situate, shall each perform the same duties in said court, and in respect thereto and the process thereof, and have the same powers, be subject to the same liabilities and penalties, and be entitled to the same fees as in the circuit court of such county; and the sheriff shall appoint one or more deputies for such court, for the convenience of the business therein, who shall reside in the city where such court is established; and the judge of such court shall have power to appoint a state's attorney, *pro tempore*, in any of the cases where the circuit court or the judge thereof may appoint.

§ 9. A master in chancery for such court shall be appointed by the judge thereof, who shall hold his office for the same time, qualify in the same manner, be subject to the same liabilities, have the same powers, perform the

Terms. - - - Appeals. - - - Venue. - - - Writs.

same duties, and be entitled to the same fees and compensation with respect to said court and matters therein as other masters in chancery.

§ 10. There shall be three or more regular terms of such court in each year, to be held at such times as may be fixed by an order of the court, from time to time, and entered of record, which order shall be published in some newspaper published in such city, at least forty days before holding the first term of court under the same; and said order shall not be changed subsequently, except by an order of court entered of record at the term preceding said change, and published in a like manner. Special terms may be called and held in the same manner and with like effect as special terms of the circuit courts, and subject to the same limitations.

§ 11. The same rules in regard to the adjournment of such courts upon the non-attendance of a judge thereof, as are or may be provided by law in regard to circuit courts, shall apply to such courts; and the said city courts, and the judges thereof, shall have the same power, with respect to adjournments, as the circuit courts and the judges thereof now or hereafter may have by law, and the adjournment of a term in such courts shall have the like effect of an adjournment in the circuit courts.

§ 12. Appeals may be taken from the judgment of justices of the peace or police magistrates in such city to the city court, and writs of *certiorari* may issue to remove causes from before such officers to the city court, and there be heard and determined as in like cases in the circuit court.

§ 13. All recognizances taken by any justice of the peace, police magistrate, or other officer in the city, in criminal cases, when the offense is committed in the city, except treason and murder, may be made returnable to the city court of such city; and in all such cases the defendant shall be temporarily detained in the city prison or bridewell, instead of the county jail.

§ 14. Change of venue from city courts, for the same causes and in the same manner, may be taken as from circuit courts, and the cases sent to the circuit court of the county, or to some other convenient court of record, where the cause complained of does not exist.

§ 15. The writs and process of city courts shall be issued and executed in the same manner, and shall have the same force and effect, except as limited by this act, as the writs and process of circuit courts. Orders, judgments and decrees of city courts shall have the same force, be of the same effect, and be executed and enforced in the same manner as the judgments, orders and decrees of circuit courts; but such judgments and decrees shall be a lien upon real estate in such city, and the county wherein such city is situate, only after a certified transcript of the same shall have been filed in the office of the circuit clerk of the county; which transcript shall contain the names of the parties to the suit, the kind of action, the amount of the judgment, or the general nature and effect of the decree, as the case may be, and the term and time at which the suit was disposed of.

The Supreme Court.

§ 16. The clerk of the circuit court of the county shall provide and keep in his office, for each city court in his county, a well-bound book or books for entering therein an alphabetical docket of all judgments and decrees rendered in said city courts, as is now required by law for docketing judgments and decrees rendered in the circuit court; and shall forthwith, after the filing of any such certificate, enter the same therein, together with the hour, day, month and year of the filing of such certificate and the general number thereof.

§ 17. In addition to the fees now allowed by law, the clerk of said city courts shall be allowed to charge and receive a fee of fifty cents for each certified transcript, as aforesaid, and the clerk of the circuit court shall be allowed to charge and receive a fee of fifty cents for filing and entering the same.

§ 18. Appeals may be taken and writs of error prosecuted from city courts to the supreme court, the same as in like cases from circuit courts.

§ 19. The fees of the grand and petit jurors of such courts shall be paid out of the city treasury of the city in which such courts are respectively situate, upon the certificate of the clerk of the respective courts.

§ 20. The several courts of record now established in and for cities, are hereby continued, under the name and style of "The City Court of (name of city)," with all the powers and jurisdiction conferred by this act.

§ 21. A city court may be organized and established under this act in any city which contains at least five thousand inhabitants, whenever the common or city council of such city shall adopt an ordinance or resolution to submit the question whether such court shall be established, to the qualified voters of such city, and two-thirds of the votes cast at the election shall be in favor of the establishment of such court. Such election shall be held and conducted, the returns thereof made and canvassed, and the result declared in the same manner as other city elections.

§ 22. Whenever the establishment of a city court shall be authorized, as provided in the foregoing section, it shall be the duty of the corporate authorities to order an election for judge and clerk; and when the judge and clerk shall be duly elected, qualified and commissioned, such court shall be deemed organized and established according to law.

AN ACT TO REVISE THE LAW IN RELATION TO THE SUPREME COURT.

Approved March 23, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That for the purpose of holding terms of the supreme court, the state shall be divided into three grand divisions, to be*

The Supreme Court. - - - Terms.

known as the Southern, Central and Northern Grand Divisions, respectively, and to be as follows:

The southern grand division shall include the counties of Alexander, Bond, Calhoun, Clay, Clinton, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Madison, Marion, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White and Williamson.

The central grand division shall include the counties of Adams, Brown, Cass, Champaign, Christian, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Fulton, Greene, Hancock, Logan, Macon, Macoupin, Mason, McDonough, McLean, Menard, Montgomery, Morgan, Moultrie, Piatt, Pike, Sangamon, Schuyler, Scott, Shelby, Tazewell and Vermilion.

The northern grand division shall include the counties of Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Grundy, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Marshall, McHenry, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Warren, Whiteside, Will, Winnebago and Woodford.

§ 2. For the election of judges of the supreme court, the state shall be divided into seven districts, as follows:

First District—The counties of St. Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski and Massac.

Second District—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun and Christian.

Third District—The counties of Sangamon, Macon, Logan, DeWitt, Piatt, Douglas, Champaign, Vermilion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie and Tazewell.

Fourth District—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass and Scott.

Fifth District—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, LaSalle, Grundy and Woodford.

Sixth District—The counties of Whiteside, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, DeKalb, Lee, Ogle and Rock Island.

Seventh District—The counties of Lake, Cook, Will, Kankakee and DuPage.

§ 3. Terms of the supreme court shall be begun and held at the several places provided for holding the same, as follows:

In the southern grand division, at Mt. Vernon, on the first Tuesday in June of each year.

The Supreme Court. - - - Powers. - - - Process.

In the central grand division, at Springfield, on the first Tuesday in January of each year.

In the northern grand division, at Ottawa, on the second Tuesday in September of each year.

§ 4. If there shall not be a quorum of the justices of the said supreme court present on the first day of any term, the court shall stand adjourned from day to day, until a quorum shall attend; and if, from any cause, the supreme court shall not sit on any day in a term after it shall have opened, there shall be no discontinuance, but, so soon as the cause is removed, the court shall proceed to business until the end of the term, or until the business depending before it shall be disposed of.

§ 5. If the said supreme court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters and causes depending in said courts, all matters and causes depending and undetermined shall stand continued until the next succeeding term.

§ 6. The several judges of the supreme court, before entering upon the duties of their office, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States, and the constitution of the State of Illinois; and that I will faithfully discharge the duties of the office of judge of the supreme court of the State of Illinois, according to the best of my ability."

Which oath or affirmation may be administered by any person authorized to administer oaths; a certificate whereof shall be affixed thereto by the person administering the oath. And the oath or affirmation so certified shall be filed in the office of the secretary of state.

§ 7. The supreme court shall be vested with all power and authority necessary to carry into complete execution all its judgments, decrees and determinations in all matters within its jurisdiction, according to the rules and principles of the common law and of the laws of this state.

§ 8. It may issue writs of *mandamus*, *habeas corpus*, *certiorari*, error and *supersedeas*, and all other writs not prohibited by law, which may be necessary to enforce the due administration of justice in all matters within its jurisdiction.

§ 9. Its process shall run in the name of The People of the State of Illinois, bear teste in the name of the chief justice, be signed by the clerk of the court for the grand division from which it is issued, dated when issued, sealed with the seal of the court, and made returnable according to law or such rules or orders as may be prescribed by the court.

§ 10. Any process which may be issued from the supreme court, or any justice thereof or the clerk, according to law, shall be executed by the officer or person to whom it is directed in any county or place in this state, in the

usual manner that process is or may be required to be executed and returned.

§ 11. The sheriff of the county in which the supreme court is held shall attend upon its sittings, and perform such duties, under the order and direction of said court, as are usually performed by such officer, and such as said court shall from time to time require.

§ 12. The supreme court may, from time to time, institute such rules of practice, and prescribe such forms of process to be used, and for the keeping of the dockets, records, and proceedings for the regulation of the said court, as shall be deemed most conducive to the due administration of justice, except as otherwise provided by law.

§ 13. The judgments and decrees of the supreme court shall be final and conclusive upon all the parties properly before the court.

§ 14. The judges of the supreme court, or any four of them, may enter orders and judgments in vacation, in any of the grand divisions of this state, in all cases which have been argued or submitted to the court during any term thereof, and which shall have been taken under advisement.

§ 15. Whenever any judgment shall have been rendered in the supreme court which, upon further consideration is found to have been erroneously entered up, the judges thereof are authorized, during vacation, to change the same without ordering a rehearing thereof, by entering a proper judgment in said cause; and in case a *procedendo* shall have been issued in such cause, the judges may recall the same; and, by order of any of the judges, all proceedings taken by reason of such *procedendo* shall be vacated and set aside: *Provided*, that all such judgments shall be corrected within six months from the adjournment of the term at which they may have been rendered.

§ 16. In the decision of cases submitted to the supreme court, the opinions of the justices shall be delivered in writing, and filed with the other papers. Such opinions shall also be spread at large upon the records of the court.

§ 17. The judges of the supreme court shall appoint a librarian for each grand division, and prescribe his duties and fix his compensation, not exceeding fifty dollars per quarter, to be paid as other expenses of the supreme court are paid. Such librarian, before entering upon the duties of his office, shall give bond, payable to the People of the State of Illinois, in the penal sum of one thousand dollars, with security to be approved by two judges of said court, conditioned for the due preservation of the books belonging to the library in his charge, and for the faithful performance of his duties as such librarian.

AN ACT TO REVISE THE LAW IN RELATION TO CLERKS OF COURTS.

Approved March 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That a clerk of the supreme court in each grand division, one clerk of the circuit court of each county, and one clerk of the criminal court of Cook county, shall be elected as provided by law, and shall severally hold their offices until their successors are elected and qualified.

§ 2. The county clerks of the several counties shall be clerks of the county courts of their respective counties.

§ 3. The several clerks aforesaid shall be commissioned by the governor.

§ 4. Every such clerk shall, before entering upon the duties of his office, give bond, with one or more sureties, to be approved by the judge of the court of which he is clerk, (except that the bond of a clerk of the supreme court, or of the circuit, superior or criminal court of Cook county, may be approved by any two of the judges of his court), which bond shall be in such penalty not less than five thousand dollars, as may be agreed by such judge or judges, payable to the People of the State of Illinois, and conditioned for the faithful performance of the duties of his office, and to pay over all moneys that may come to his hands by virtue of his office, to the parties entitled thereto, and to deliver up all moneys, papers, books, records, and other things appertaining to his office, whole, safe and undamaged, when lawfully required so to do—which bond shall be filed in the office of the secretary of state. He shall also, before entering upon the duties of his office, take and subscribe the following oath or affirmation:

“I do solemnly swear, (*or affirm, as the case may be,*) that I will support the constitution of the United States and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of clerk of-----, according to the best of my ability.”

Which oath shall be filed in the office of the secretary of state.

§ 5. The clerks of the supreme court shall keep their offices at the court houses, or other places of holding the supreme court in their respective grand divisions, and shall keep their offices open and attend to the duties thereof from eight o'clock A. M. to six o'clock P. M. of each working day.

§ 6. The clerks of the circuit courts and of the superior and criminal courts of Cook county, and the clerks of the county courts, shall keep their offices at the court houses of their respective counties, or at such other place as may be provided for them by the authorities of their respective counties, and shall keep their offices open and attend to the duties thereof from eight o'clock A. M. to six o'clock P. M. of each working day.

§ 7. The clerks of the said several courts shall be keepers of the seals of their respective courts.

§ 8. They shall, in all cases, attend in person to the duties of their offices, respectively, when it is practicable so to do, and shall perform all the duties thereof which can reasonably be performed by one person.

§ 9. They may, when necessary, appoint deputies, who shall take the same oath or affirmation as is required of the principal clerk, which shall be filed in the office of the secretary of state.

§ 10. The principal clerk shall in all cases be responsible for the acts of his deputies.

§ 11. When a vacancy occurs in the office of clerk of any court of record, whose unexpired term exceeds one year, the court, or, if in vacation, the judge or judges thereof, shall appoint a clerk, *pro tempore*, who shall qualify by giving bond and taking the oath as required by law of the clerk of such court; and thereupon such appointee shall perform all the duties required of a duly elected clerk of such court, and may receive like emoluments, and shall hold such office until some person is elected and qualified according to law to fill such vacancy. Whenever any such vacancy occurs the court, or judge or judges thereof, shall forthwith notify the governor of the vacancy, who, upon receiving such notice, shall, as soon thereafter as may be practicable, issue a writ of election, as in other cases.

§ 12. The clerks shall issue the process of their respective courts in the manner provided by law.

§ 13. The said clerks shall attend the sessions of their respective courts, preserve all the files and papers thereof, make, keep and preserve complete records of all the proceedings and determinations thereof, except in cases otherwise provided by law, and do and perform all other duties pertaining to their said offices, as may be required by law or the rules and orders of their courts respectively.

§ 14. They shall enter of record all judgments, decrees and orders of their respective courts, before the final adjournment of the respective terms thereof, or as soon thereafter as practicable.

§ 15. Any clerk of either of said courts who fails to enter of record any order, judgment, or decree of his court, when the same ought to have been done, or fails to enter of record all or any of the orders, judgments and decrees of the court by or before the next succeeding regular term of the court after the same is made or rendered, shall be fined by the court not exceeding one hundred dollars, and for any subsequent offense he may be fined in a like amount, or proceeded against as for a misdemeanor in office, and removed from his office.

§ 16. The respective clerks of the circuit courts, the superior court of Cook county, and the county court, shall keep in their offices the following books, to-wit:

First—A general docket, upon which shall be entered all suits, in the order in which they are commenced.

Clerks of Courts. - - - Record Books.

Second—Two well-bound books, to be denominated “Plaintiff’s Index to Court Records,” and “Defendant’s Index to Court Records,” to be ruled and printed substantially in the following manner:

Plaintiffs.	Defendants.	Kind of action.	Term commenced.	Record book.	Pages.

Terms disposed of.	Date of judgment.	Judgment docket.		Execution docket, fi. fa.		Execution docket, alias.		Execution docket, pluries.	
		Book.	Page.	Book.	Page.	Book.	Page.	Book.	Page.

Fee Book.		Certificate of levy.		Certificate of sale.		Certificate of redemption.		Satisfied or not satisfied.	No. of case.
Book.	Page.	Book.	Page.	Book.	Page.	Book.	Page.		

In which all the cases shall be entered, in alphabetical order, by the name of each plaintiff and defendant. Said books shall set forth the names of the parties, kind of action, term commenced, the record books and pages on which said cases are recorded, the term disposed of, date of judgment, books and pages of the judgment dockets, execution dockets, fee books, certificates of levy, sale and redemption, records on which they are entered, satisfied or not satisfied, and number of case. The defendant’s index shall be ruled and printed in the same manner as the plaintiff’s, except the parties shall be reversed.

Third—Proper books of record, with indices showing the names of all the parties to any suit or judgment therein recorded, with a reference to the page where it is recorded.

Fourth—A judgment and execution docket, in which all final judgments and decrees shall be minuted at the time they are entered, or within sixty days thereafter, in alphabetical order, by the name of every person against whom the judgment or decree is entered, showing, in the proper columns ruled for that purpose, the names of the parties, the date, nature of the judgment or decree, amount of debt, damages and costs, book and page in which it is entered, fee book and page, time of issuing each execution, the amount of debt, damages and costs, in separate items, for which it is issued, to whom

issued, when returned, and the manner of its execution. A blank column shall be kept, in which may be entered a note of the satisfaction or other disposition of the judgment or decree, and when satisfied by execution, or otherwise, or set aside or enjoined, the clerk shall enter a minute thereof in such column, showing how disposed of, the date, and the book and page where the evidence thereof is to be found. Such dockets may be searched by persons at all reasonable times without fee.

Fifth—A fee book, in which shall be distinctly set down, in items, under the proper title of the cause, and heads, the costs of each suit, including clerk's, sheriff's and witness' fees, stating the name of each witness having claimed his attendance during the term, with the number of days he attended at each term. It shall not be necessary to insert the costs in the judgment or decree; but whenever a suit is determined and final judgment entered, the costs of each party litigant shall be made up and entered in such fee book, which shall be considered a part of the record of judgment, subject, however, at all times, to be corrected by the court; and the prevailing party shall be considered as having recovered judgment for the amount of the costs so taxed in his favor, and the same shall be included in the execution issued upon such judgment or decree, and a bill thereof accompanying each execution. If any clerk shall issue a fee bill or a bill of costs with the execution, without first entering the same in his fee book, or if any such bill of costs or fee bill shall be so issued which shall not be in substance a copy of the recorded bill, the same shall be void. And any person having paid such bill of costs or fee bill, may recover from the clerk the amount thereof, with costs of suit, in any court of competent jurisdiction.

Sixth.—The clerk's, judge's and bar docket, as provided by section fourteen of the act in regard to practice in courts of record, with alphabetical indices thereto, by the name of each plaintiff and defendant.

Seventh.—Such other books of record and entry as are provided by law, or may be required in the proper performance of their duties. All records, dockets and books, required by law to be kept by such clerks, shall be deemed public records, and shall at all times be open to inspection without fee or reward.

§ 17. If any such clerk shall fail to keep any such docket or record book, or any book required by law to be kept by him, or to make the proper entries therein at the time required by law, or, when no time is fixed, within a reasonable time, he shall be fined by the court not exceeding one hundred dollars, and for a subsequent offense he may be fined in a like amount, or proceeded against as for a misdemeanor in office, and removed from his office.

§ 18. The several clerks of the supreme court shall, from time to time, procure the books and stationery necessary for their respective offices, and proper presses (when the same or sufficient vaults are not already provided) for the safe keeping of the archives of their offices, and the accounts therefor shall be certified by the court to the auditor of public accounts, who shall

Clerks of County Courts. - - - Their Duties.

draw his warrants on the state treasury for the amount of the same, to be paid out of the appropriations that shall be made therefor.

§ 19. The several clerks of the circuit and county courts of the respective counties, and the clerks of the superior court of Cook county, and the criminal court of Cook county, shall, from time to time, as may be necessary, procure the proper books and stationery for their respective offices, unless the same are provided by the county board, as provided by law.

§ 20. The necessary rooms and office furniture, the proper vaults or other means for the safe keeping of the archives of their respective offices, shall be provided for the several clerks mentioned in the preceding section by the county boards of their respective counties, and the cost thereof paid out of the county treasury.

§ 21. Whenever a clerk of any court shall go out of office, it shall be his duty to deliver over to his successor, and of his successor to demand and receive from him, all the books, papers, records and other things appertaining to his office, or in the possession of such outgoing clerk, by virtue of his office. And should any person herein required to give up the books, papers, records and other things, as aforesaid, refuse so to do on such application and demand, the court shall have power to use such compulsory process, and take such measures as may be necessary to coerce the delivery as aforesaid, according to the true intent and meaning hereof.

§ 22. The judges of the several courts shall, as often as once in each year, make an examination of the offices of the clerks of their respective courts, and may give such directions and make such orders in regard to the keeping of the same, and the records and papers thereof, not contrary to law, as they shall deem best.

DUTIES PECULIAR TO CLERKS OF COUNTY COURTS.

§ 23. The clerks of the several county courts of this state are authorized, upon filing petition and giving proper bond, to grant letters testamentary or of administration, and citations in vacation, subject to the approval or disapproval of the court, at its next regular term.

§ 24. They shall keep a docket, in which they shall enter all the unsettled estates in their office, the name of the administrator, the date of the letters of administration, the amount of the bond, and the names of the securities thereto, the names of the heirs and widow, when known, the time of filing inventory and sale bill, and amount of sale bill—leaving a sufficient margin for remarks. Said book to be prepared substantially in the following form :

Name of deceased and administrator.	Date of letters.	Amount of bond and names of securities.	Widow and heirs.	When inventory and sale bill filed, and amount of sale bill.	Remarks.

 Clerks of County Courts. - - - Their Duties. - - - Record Books.

The dockets shall have an alphabetical index, in which shall be entered each estate, and the page upon which it is docketed.

§ 25. Such clerks shall also keep a docket, in which shall be entered a minute of all claims filed against estates in the order in which they are filed, setting forth the name of the claimant and of the estate against which the same is filed; the nature and amount of the claim; if summons was issued thereon, when and where returnable — with sufficient margin opposite each claim for the judgment of the court; which book shall be prepared and kept substantially in the following form:

Names of claimant and estate.	Nature and amount of claim.	Memorandum as to summons and notice.	Judgment of court.

§ 26. The judgment docket shall have an alphabetical index kept by the clerk, both direct and indirect — the direct memorandum in the index to show the name of the claimant, the name of the estate, and the page upon which the claim will be found; the indirect memorandum in the index shall merely be the name of the estate, opposite which shall be set down the various pages upon which judgments are entered, either against or for the estate.

§ 27. Such clerks shall also provide well-bound books, in which to record bonds and letters of administrators, executors and guardians, inventories, appraisement bills, and sale bills of estates, widows' relinquishments and selection, inventories of property of minors' wills, and the probate thereof, annual and final reports of administrators, executors and guardians, and such other exhibits or writings as are required by law to be recorded; and, also, a book to be called a ledger, in which shall be kept the accounts of all executors, administrators and guardians; the debit side to be made up of all items with which the executor, administrator or guardian is charged, with a memorandum opposite each item of charge of the book and page in which the original entry is made; the credit side shall be made up of all sums properly paid by the executor, administrator or guardian, under the laws of this state, which have been allowed by the court; opposite each item of credit a like memorandum shall be made, showing the book and page where the original entry is to be found. Each of the books required to be kept by this section shall have an alphabetical index, with proper entries, so that the contents may be readily found. The clerks shall, as heretofore, keep a journal of the proceedings of the court, a full summary of all settlements made by executors, administrators or guardians, shall be entered in the journal. The journal shall have a copious alphabetical index of all entries made therein.

COUNTIES.

AN ACT TO REVISE THE LAW IN RELATION TO COUNTIES.

Approved March 31, 1874. In force March 31, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the boundaries of the several counties of this state shall remain as now established until the same shall be changed according to law.

§ 2. Each county bounded by either the Mississippi, Ohio or Wabash river, shall have jurisdiction over such river to the extent it is so bounded, which jurisdiction may be exercised concurrently with the contiguous states bounded by such river.

§ 3. Each of the counties bordering on Lake Michigan shall have jurisdiction over said lake eastwardly, to the east line of the state.

ALTERATION OF COUNTY LINES.

§ 4. When a majority of the legal voters, residing upon any territory, not less than half of one congressional township, shall petition the county board of their own county, and also of the county to which they desire such territory to be transferred, for leave to have such territory transferred to such county, it shall be the duty of the several county boards so petitioned to order an election for such purpose in their respective counties, to be held within three months from the time of receiving such petition; which election shall be governed by the laws relating to general elections, and returns of said election shall be made to the secretary of state as for county officers.

§ 5. Notices of such election shall contain a description of the territory proposed to be transferred, the names of the counties from and to which such transfer is intended to be made, and shall be posted as required for general elections.

§ 6. The ballots used in the said elections may be in the following form, to-wit: "For transferring territory," and "Against transferring territory," when, if a majority of the voters voting upon said question in the county from which said territory is proposed to be taken, and a majority of the voters of the county to which the same is proposed to be transferred, shall be "For transferring territory," then the said territory shall be transferred to and become a part of the county to which it is proposed to transfer the same, on and after the first day of March succeeding such elections, and shall be subject to all the laws, rules and regulations thereof: *Provided*, that all assessments and collection of taxes, and judicial or other official proceedings commenced prior to said first day of March, shall be continued, prose-

County Indebtedness. - - - New Counties.

cuted and completed, in the same manner as if no such transfer had been made: *And, provided, further*, that all township or precinct officers within said transferred territory, shall continue to hold their respective offices within the county to which they may be transferred, until their respective terms of office expire.

§ 7. No county shall be reduced, under the provisions of this act, to less contents than four hundred square miles; nor shall any county line be made to pass within less than ten miles of the county seat of the county from which territory is so transferred.

§ 8. No territory transferred under the provisions of this act, shall be released from the payment of its proportion of the debts of the county from which such territory is transferred; and such proportionate indebtedness from such transferred territory shall be collected by the county to which such territory is transferred, at an equal or greater rate than is levied and collected in the county from which such territory was transferred — such rate to be ascertained by the certificate of the county clerk of said last named county, and when so collected, to be paid over to the county entitled thereto.

§ 9. When the county to which such territory is transferred shall also be indebted, the county board of such county shall release such transferred territory from the payment of such indebtedness, to an amount equal to that which said territory is required to pay to the county from which it was transferred.

§ 10. When a majority of the legal voters of any territory, less than half of one congressional township, shall petition the county boards as provided in section four of this act, the said county boards may, in their discretion, order elections to be held as herein provided; and in any case where elections have been held under this act, and the result has been adverse to the petitioners, it shall be in the discretion of the said boards to order another election, on a petition to transfer the same territory, within three years from the time of holding such former election.

NEW COUNTIES.

§ 11. Whenever it is desired to form a new county out of one or more of the then existing counties, and a petition praying for the erection of such new county, stating and describing the territory proposed to be taken for such new county, together with the name of such proposed new county, signed by a majority of the legal voters residing in the territory to be stricken from such county or counties, shall be presented to the county board of each county to be affected by such division, and it appearing that such new county can be constitutionally formed, it shall be the duty of such county board or county boards to make an order providing for the submission of the question of the erection of such new county to a vote of the people of the counties

New Counties. - - - Officers. - - - Election.

to be affected, at the next succeeding general election for the election of members of the general assembly, of which the notice shall be given, the votes canvassed, and the returns made as in case of election of county officers or members of the general assembly; and the form of the ballot to be used in the determination of such question shall be as follows: "For new county," and "Against new county."

§ 12. If it shall appear that a majority of all the votes cast at such election in each of the counties interested, is in favor of the erection of such new county, the county clerk of each of said counties shall certify the same to the secretary of state, stating in such certificate the name, territorial contents and boundaries of such new county; whereupon the secretary of state shall notify the governor of the result of such election, whose duty it shall be to order an election of county officers for such new county, at such time as he shall designate, and he may, when necessary, fix the place of holding election, notice of which shall be given in such manner as the governor shall direct. At such election the qualified voters of said new county shall elect all county officers for said county, except as hereinafter excepted, who shall be commissioned and qualified in the same manner as such officers are in other counties in this state, and who shall continue in office until the next general election for such officers, and until their successors are elected and qualified, and who shall have all the jurisdiction and perform all the duties which are or may be conferred upon such officers in other counties of this state.

§ 13. All the justices of the peace, constables, and other township or precinct officers, who were previously elected and qualified in the county or counties from which such new county has been formed, whose term of office shall not have expired at the time of said election, and whose residence shall be embraced within the limits of said new county, shall continue in office until their terms of office shall expire, and until their successors shall be elected and qualified.

§ 14. The votes for the county officers of said new county shall be canvassed, and returns made by the county clerk or county clerks of the county or counties from which such new county was formed, as provided by law in other cases.

§ 15. The oath of office may be administered to the several county officers of such new county by any person authorized by law to administer oaths; and as soon as said county officers are duly qualified, the county shall be regarded as legally organized, and for judicial purposes shall be deemed and taken as belonging to the circuit in which said new county, or the greater part thereof, is embraced, and terms of the circuit court shall be held at such place in said new county as the county board thereof shall designate, until the county seat thereof shall be permanently located. The times of holding such court shall be appointed by the judge thereof, until otherwise provided by law.

§ 16. The courts of any county or counties from which such new county is erected may, by proper order, transfer any suit or other legal proceeding affecting real estate in such new county, to the proper court of such new county, or may transfer any suit and all papers and records pertaining thereto to such new county, when all the parties thereto are residents of such new county; but all judgments and other liens in the county or counties from which such new county was erected, shall have the same effect as if no new county had been erected.

§ 17. All the property, both real and personal, and all debts, liabilities and choses in action of every kind, belonging to the county or counties from which such new county was formed, shall be divided by the several county boards of the counties interested, between the county or counties from which such new county is formed, and the new county, in proportion to the assessed value of property for the last preceding year, which has been taken from such original county or counties and carried to such new county; and if such new boards cannot agree upon such division, they may refer the matter of difference to arbitrators, or the rights to such property may be settled by a bill in chancery filed by either party for that purpose. In case the said property cannot be divided or removed, the county receiving the same shall pay to the other a proportionate value for the same.

§ 18. The county board of such new county shall, at any session of said board, by an order to be entered of record, appoint some competent person a commissioner, for the purpose hereinafter expressed, who shall take an oath of office before some person authorized by law to administer oaths. Said board shall, at the same time, provide a sufficient number of blank books, and deliver them to said commissioner, who shall receipt for the same to the county clerk of said county.

§ 19. As soon as said books shall be delivered to said commissioner, he shall record in each a copy of the order of his appointment and of his oath of office, and shall thereupon proceed to transcribe into such books, from the records of the county or several counties from which the new county is formed, all such deeds, mortgages and title papers of every description, with the certificates of acknowledgment thereto, and the date of the filing of the same for record, of lands lying in said new county which previously were recorded in the counties from which such new county was formed; and there shall be allowed said commissioner such sum as his services aforesaid are reasonably worth, to be paid out of the county treasury of the said new county.

§ 20. Said commissioner shall note, at the end of each paper he shall transcribe, the book and page from which the same was transcribed, and shall make a correct double index of said records; and on the completion of his duties, said commissioner shall return said books to the recorder of deeds of said new county, with his certificate attached thereto, showing that he has complied with the law; whereupon they shall be taken and considered, to all intents and purposes, as books of records of deeds, mortgages and title

County Seat. - - - Powers and Duties of County Boards.

papers for said new county. And copies of said record, certified by the officer having the custody of the same, shall be evidence in all courts and places, in the same manner that copies of records are evidence in other cases and with like effect.

§ 21. For the purpose of fixing the permanent location of the county seat of such new county, the voters of said county shall, at said election for county officers, vote for some place, to be designated upon their ballots, for a county seat; upon which ballot shall be written or printed, or partly written and partly printed, "For County Seat," after which words shall be written or printed the name of the place intended for the county seat. The place receiving a majority of all the legal votes cast upon the question shall be the county seat of said county. But if no place shall receive a majority of all the votes cast upon the question, then it shall be the duty of the county board of said county to call another election within sixty days thereafter, at the several places of holding elections in said county, at which election the voters of said county shall proceed to vote as before, but shall choose from the two places having the greatest number of legal votes at the former election; and the place having the majority of all the legal votes cast at the second election shall be the permanent county seat of said county.

OF THE POWERS AND DUTIES OF COUNTIES AND COUNTY BOARDS.

§ 22. Each county which has heretofore been, or may hereafter be established in this state, according to the laws thereof, shall be a body politic and corporate, by the name and style of "The county of.....," and by that name may sue and be sued, plead and may be impleaded, defend and be defended against in any court of record having jurisdiction of the subject matter, either in law or equity, or other place where justice shall be administered.

§ 23. The powers of the county, as a body corporate or politic, shall be exercised by a county board, to-wit: In counties under township organization (except the county of Cook), by the board of supervisors, which shall be composed of the town and such other supervisors as are or may be elected pursuant to law; except in the county of Cook, by a board of county commissioners, pursuant to section 7, article 10 of the constitution; in counties not under township organization, by the board of county commissioners.

§ 24. Each county shall have power:

First — To purchase and hold the real and personal estate necessary for the uses of the county, and to purchase and hold, for the benefit of the county, real estate sold by virtue of judicial proceedings in which the county is plaintiff.

Second — To sell and convey or lease any real or personal estate owned by the county.

Powers and Duties of County Boards.

Third — To make all contracts and do all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate powers.

Fourth — To take all necessary measures and institute proceedings to enforce all laws for the prevention of cruelty to animals.

§ 25. The county boards of the several counties shall have power:

First — To take and have the care and custody of all the real and personal estate owned by the county.

Second — To manage the county funds and county business, except as otherwise specifically provided.

Third — To examine and settle all accounts against the county, and all accounts concerning the receipts and expenditures of the county.

Fourth — To cause to be erected or otherwise provided a suitable workhouse, in which persons convicted of offenses punishable by imprisonment in the county jail, may be confined and employed, and to make rules and regulations for the management thereof. They may contract for the use of a city workhouse when the same can satisfactorily be done.

Fifth — To cause to be erected or otherwise provided suitable buildings for, and maintain, a county insane asylum, and provide for the management of the same.

Sixth — To cause to be annually levied and collected, taxes for county purposes, including all purposes for which money may be raised by the county by taxation, not exceeding seventy-five cents on the one hundred dollars' valuation, and in addition thereto an annual tax not exceeding one hundred cents on the one hundred dollars, for the purpose of paying the interest and principal of indebtedness which existed at the time of the adoption of the constitution.

Seventh — To authorize the vacation of any town plat when the same is not within any incorporated town, village or city, on the petition of two-thirds of the owners thereof.

Eighth — To change the name of any town plat on the petition of a majority of the legal voters residing therein, when the inhabitants thereof have not become a body corporate.

§ 26. It shall be the duty of the county board of each county:

First — To erect or otherwise provide when necessary, and the finances of the county will justify it, and keep in repair, a suitable court house, jail, and other necessary county buildings, and to provide proper rooms and offices for the accommodation of the several courts of record of the county, and for the county board, county clerk, county treasurer, recorder, sheriff, and the clerks of said courts, and to provide suitable furniture therefor. But in counties not under township organization, no appropriations shall be made for the erection of public buildings, without first submitting the proposition to a vote of the people of the county, and said vote shall be submitted in the same manner and under the same restrictions as provided for

in like cases in section twenty-seven of this act, and the votes therefor shall be "For taxation," specifying the object, and those against shall be "Against taxation," specifying the object.

Second — To provide and keep in repair, when the finances of the county permit, suitable fire-proof safes or offices for the county clerk, county treasurer, recorder, sheriffs and clerks of said courts.

Third — To provide suitable books and stationery for the use of the county board, county clerk, county treasurer, recorder, sheriff, coroner, and the clerks of said courts.

Fourth — To cause to be published at the close of each annual, regular or special meeting of the board, a brief statement of the proceedings thereof in one or more newspapers published in the county, in which shall be set forth the name of every individual who shall have had any account audited and allowed by said board, and the amount of said claim as allowed, and the amount claimed, and also their proceedings upon the equalization of the assessment roll: *Provided*, that no publication in a newspaper shall be required unless the same can be done without unreasonable expense.

Fifth — To make out at its meeting in September, annually, a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and correct description of each item, from whom and on what account received, to whom paid, and on what account expended, together with an accurate statement of the finances of the county at the end of the fiscal year, including all debts and liabilities of every description, and the assets and other means to discharge the same; and within thirty days thereafter to cause the same to be posted up at the court house door, and at two other places in the county, and published for one week in some newspaper therein, if there is one, and the same can be done without unreasonable expense.

§ 27. Whenever the county board shall deem it necessary to assess taxes, the aggregate of which shall exceed the rate of seventy-five cents per one hundred dollars' valuation of the property of the county, except when such excess is to be used for the payment of indebtedness existing at the adoption of the constitution, the county board may, by an order entered of record, set forth substantially the amount of such excess required, and the purpose for which the same will be required, and if for the payment of interest or principal, or both, upon bonds, shall in a general way designate the bonds and specify the number of years such excess will be required to be levied, and provide for the submission of the question of assessing the additional rate required to a vote of the people of the county at the next election for county officers after the adoption of the resolution; and it shall be the duty of the county clerk in his election notice to give notice of such submission. The votes therefor shall be, "For additional tax," and those against shall be, "Against additional tax." The votes shall be canvassed and returned the same as those for county officers, and if a majority of the

County Boards. - - - Bonds, Covenants, Actions.

votes cast upon the question are "For additional tax," then the county board shall have power to cause such additional tax to be levied and collected in accordance with the terms of such resolution, and the money so collected shall be kept as a separate fund and disbursed only for the purposes for which the same was raised: *Provided*, any surplus that may remain after the payment of all demands against said fund may be used for other purposes.

§ 28. If it shall be deemed necessary to submit to a vote of the people at the same election the question of issuing bonds and the raising of such additional tax, the same may be included in one proceeding, and in that case the votes in favor of issuing such bonds and levying such additional tax shall be, "For bonds and additional tax," and those against shall be, "Against bonds and additional tax."

§ 29. All deeds, grants and conveyances heretofore made, and duly acknowledged and recorded as other deeds, conveying any lands, tenements or hereditaments to any county or to the inhabitants of any county, or to the county commissioners, county commissioners' court, county court, board of supervisors, or to the governor, or any other officer or person or persons, by whatever form of conveyance, for the use and benefit of any county, shall be good and valid to all intents and purposes, to vest in such county, in fee simple or otherwise, all such right, title, interest and estate as the grantor or grantors in any such deed or conveyance had at the time of the execution thereof, in the land conveyed, and intended thereby to be conveyed.

§ 30. All notes, bonds, bills, contracts, covenants, agreements or writings, made or to be made, whereby any person is or shall be bound to the People of the State of Illinois, or to any county or the inhabitants thereof, or to the county commissioners, county commissioners' court, or county court, or the board of supervisors, or to the governor, or any other officer or person, in whatever form, for the payment of money, or any debt or duty, or the performance of any matter or thing to or for the use of any county, shall be as valid and effectual, to all intents and purposes, to vest in said county all the rights, interest and actions which would be vested in any individual, if any such contract had been made directly to him. Suits may be commenced, sued and prosecuted thereon in the name of said county, as is provided herein, or in the name of the officer or person to whom they are made, to the use of the county, as fully and effectually, to all intents and purposes, as any person may or can upon like notes, bills, bonds, contracts, agreements or writings made to him.

§ 31. All actions, local or transitory, against any county, may be commenced and prosecuted to final judgment in the circuit court, or any court of general jurisdiction in the county against which the action is brought. Any action, local or transitory, in which any county shall be plaintiff, may be commenced and prosecuted to final judgment in the county in which the defendant in such action resides.

County Boards. - - - Suits, Claims, Compensation.

§ 32. In all actions brought by or against any county, the inhabitants of the county so suing or being sued may be jurors or witnesses, if otherwise competent or qualified according to law.

§ 33. It shall be the duty of the county boards of each of the counties of this state to take and order suitable and proper measures for the prosecuting and defending of all suits to be brought by or against their respective counties, and all suits which it may become necessary to prosecute or defend to enforce the collection of all taxes charged on the state assessment.

§ 34. Execution shall not in any case issue against the lands or other property of a county, but when judgment is rendered against a county, the county board shall direct an order to be drawn on the county treasurer for the amount of the judgment and costs, which order shall be paid as other county debts.

§ 35. Before any claim against a county is audited and allowed, the claimant or his agent shall verify the same by his affidavit, stating that the several items therein mentioned are just and true, and the services charged therein, or articles furnished, as the case may be, were rendered or furnished as therein charged, and that the amount claimed is due and unpaid after allowing all just credits; and when the claim of any person against a county is disallowed in whole or in part by the county board, and the nature of the claim is not such that the allowance is discretionary with the county board, such person may appeal from the decision of such board to the circuit court of the same county, upon filing bond with the clerk of such court within twenty days after the rendition of the decision, with such security as shall be approved by such clerk, in the penal sum of two hundred and fifty dollars, payable to the People of the State of Illinois for the use of such county, conditioned that he will prosecute the appeal with effect and pay all costs that may be adjudged against him.

§ 36. Upon such bond being filed with the said clerk, he shall issue a summons against the county board in like form, as near as may be, as in cases of appeals from justices of the peace, which shall be served as other summons against a county.

§ 37. The county clerk shall, within ten days after the service of such summons, make out a certified copy of the decision appealed from, and transmit the same, together with all the papers in his possession appertaining to such decision, to the clerk of the circuit court, who shall file the same in his office and docket the case as in other cases of appeals.

§ 38. The time of fixing the compensation of county officers whose compensation is to be fixed by the county board, shall be at the meeting of such board next before the regular election of the officers whose compensation is to be fixed; but in case where such compensation is not fixed, the board shall proceed, at the next regular or special meeting held thereafter, to fix such compensation.

§ 39. Whenever a tax is levied for the payment of a specific debt, the

County Boards not under Township Organization.

amount of such tax collected shall be kept as a separate fund in the county treasury, and expended only in the liquidation of such indebtedness. *Provided*, that any surplus remaining in the treasury after full payment of such indebtedness, shall be transferred to the common fund of the county.

§ 40. When the county board of any county shall deem it necessary to issue county bonds to enable them to perform any of the duties imposed upon them by law, they may, by an order entered of record, specifying the amount of bonds required and the object for which they are to be issued, submit to the legal voters of their county, at any general election, the question of issuing such county bonds. The amount of the bonds so issued shall not exceed, including the then existing indebtedness of the county, five per centum on the value of such taxable property of such county, as ascertained by the assessment for the state and county tax for the preceding year. Said vote shall be by ballot, on which shall be written or printed "For county bonds," or "Against county bonds;" and if a majority of the voters at such election on that question shall be "For county bonds," such county board shall be authorized to issue such bonds of not less than one hundred dollars nor more than one thousand dollars each, payable respectively in not less than one year nor more than twenty years, with interest payable annually at the rate of not more than ten per cent. per annum.

§ 41. If any member of the county board of any county in this state shall willfully neglect to perform any of the duties which are or shall be required of him by law, as a member of the county board, he shall, for every such offense, forfeit the sum of two hundred dollars, to be recovered in an action of debt before any justice of the peace of the county.

PROVISIONS SPECIALLY APPLICABLE TO THE BOARD OF COUNTY COMMISSIONERS IN COUNTIES NOT UNDER TOWNSHIP ORGANIZATION.

§ 42. Each member of the board of county commissioners shall be commissioned by the governor, and shall, before entering upon the duties of his office, take and subscribe the following oath, which shall be filed in the office of the county clerk:

"I do solemnly swear, (or affirm, *as the case may be*), that I will support the constitution of the United States and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of county commissioner of county, according to the best of my ability."

§ 43. The Board of county commissioners shall hold regular sessions for the transaction of the business of the county, on the first Mondays of December, March, June and September, the second Monday of July of each year, and at such other times as may be provided by law, and may hold special sessions on the call of the chairman or any two members of said board, whenever the business of the county requires it.

§ 44. At the session of said commissioners in December of each year,

County Boards under Township Organization.

they shall elect one of their number chairman for the ensuing year, who shall preside at their sessions and perform such duties as are or may be prescribed by law or by the order of said board.

§ 45. A majority of the members of said board shall constitute a quorum to do business, and, in the absence of the chairman, a chairman *pro tem.* may be appointed.

§ 46. The board of county commissioners shall be the successor of the county court in relation to all matters concerning county affairs, and where, in any county not under township organization, the county court is authorized to do any act or make any contract on behalf of the county, such authority shall be vested in said board.

§ 47. Such board shall have general supervision of all highways, roads and bridges in the county including state roads.

§ 48. The chairman or any member of the board of county commissioners may administer oaths to persons, concerning any matter submitted to the board, or connected with their powers or duties.

§ 48½. All acts heretofore done by boards of county commissioners, which might have been done by county courts in counties in which the said courts have not continued to do the business of said counties, are hereby legalized.

PROVISIONS SPECIALLY APPLICABLE TO THE BOARD OF SUPERVISORS IN
COUNTIES UNDER TOWNSHIP ORGANIZATION.

§ 49. The annual meetings of the boards of supervisors shall be holden on the second Tuesday of September in each and every year, at the county seat; and if the court house be convenient, shall be held therein. A regular meeting of the board shall be held on the second Monday of July of each and every year, at the county seat, and at such other times as may be prescribed by law.

§ 50. Special meetings of the board of supervisors shall be held only when requested by at least one-third of the members of the board, which request shall be in writing, addressed to the clerk of the board, and specifying the time and place of such meeting, upon reception of which the clerk shall immediately transmit notice, in writing, of such meeting, to each of the members of the board. The clerk shall also cause notice of such meeting to be published in some newspaper printed in the county, if any there be.

§ 51. The board of supervisors, at their first meeting in every year, shall organize by choosing one of their number as chairman, who shall preside at all meetings of the board during the year. In case of his absence at any meeting, the members present shall choose one of their number as temporary chairman.

§ 52. The supervisors shall severally lay before the board, at the first meeting after the election, their several certificates of election, which shall

County Boards. - - - Oath. - - - Funds. - - - Boundaries, and Names of Towns.

be examined by the board, and if found regular, shall be filed in the office of the county clerk.

§ 53. A majority of the supervisors of any county shall constitute a quorum for the transaction of business; and all questions which shall arise at meetings shall be determined by the votes of the majority of the supervisors present, except in such cases as is otherwise provided.

§ 54. The board of supervisors shall sit with open doors, and all persons may attend their meetings.

§ 55. Every chairman of said board shall have power to administer an oath to any person, concerning any matters submitted to the board or connected with their powers and duties.

§ 56. Said board shall have power to appropriate funds to aid in the construction of roads and bridges in any part of the county, whenever a majority of the whole board of the county may deem it proper and expedient.

§ 57. Said board shall also have power to change the boundaries of towns, and to create new towns in their respective counties, in manner provided by law; to designate and give names thereto, and to fix the place of holding the first town meeting therein.

§ 58. Whenever the board of supervisors shall create a new town, or change the name of an existing town, the proceedings in giving a name to such new town, or changing the name of an existing town, shall be as follows: The proposed name to be given to such new town, or existing town, shall be filed in the office of the auditor of public accounts, there to be retained for at least one year, and the auditor of public accounts, at any time after the filing of such proposed name, shall, upon application of said board, grant his certificate stating that such proposed name, from information appearing in his office, has not been adopted by any city, town, village or municipal corporation in this state, which certificate must be obtained by said board before any action whatever shall be taken by said board toward making such change of name; and all proceedings instituted in any court or other place, under a name changed, without complying with the provisions of this section, shall be held to be void and of no effect. If such name has been adopted elsewhere in this state, the auditor of public accounts shall so notify the board, whereupon another name shall be filed in his office, which shall there remain in like manner as hereinbefore provided, and the certificate shall be issued by the auditor of public accounts immediately after such filing, stating that such name has not been elsewhere adopted, whereupon said board may proceed to make such change of name, and not before; and all proceedings pending, and all rights and privileges acquired in the name of such town, by such town, or by any person residing therein, shall be secured to such town or person, and such proceedings continued to final consummation in such name, the same as though the same had not been changed.

Board of County Commissioners of Cook County. - - - Districts, Terms, Oath of Office.

SPECIAL PROVISIONS APPLICABLE TO THE BOARD OF COUNTY COMMISSIONERS
OF COOK COUNTY.

§ 59. The county of Cook shall be divided into six districts for the election of county commissioners, and shall be entitled to elect such commissioners in the respective districts, as follows:

First — The towns of South Chicago, North Chicago and West Chicago shall constitute the first district, and shall, on the first Tuesday after the first Monday in November, in the year 1874, and every three years thereafter, elect four commissioners; and on the first Tuesday after the first Monday in November, in the year 1875, and every three years thereafter, elect two commissioners; and on the first Tuesday after the first Monday in November, in the year 1876, and every three years thereafter, elect four commissioners.

Second — The towns of Lake View, Jefferson, Norwood Park, Niles, Evanston, New Trier and Northfield shall constitute the second district, and on the first Tuesday after the first Monday of November, in the year 1875, and every three years thereafter, shall elect one commissioner.

Third — The towns of Wheeling, Maine, Elk Grove, Schaumburg, Palatine, Barrington and Hanover shall constitute the third district, and on the first Tuesday after the first Monday of November, in the year 1876, and every three years thereafter, shall elect one commissioner.

Fourth — The towns of Leyden, Proviso, Lyons, Cicero, Riverside and Lake shall constitute the fourth district, and on the first Tuesday after the first Monday of November, in the year 1875, and every three years thereafter, shall elect one commissioner.

Fifth — The towns of Hyde Park, Calumet, Worth and Thornton shall constitute the fifth district, and on the first Tuesday after the first Monday of November, in the year 1874, and every three years thereafter, shall elect one commissioner.

Sixth — The towns of Bloom, Rich, Bremen, Orland, Palos and Lemont shall constitute the sixth district, and on the first Tuesday after the first Monday of November, in the year 1875, and every three years thereafter, shall elect one commissioner.

§ 60. Their terms of office shall begin on the first Monday of December after their election, and they shall hold their office respectively until their successors are elected and qualified.

§ 61. The said commissioners shall take the oath of office prescribed by the constitution. They shall have regular meetings on the first Mondays of December, March, June and September of each year. They shall be known as "The Board of Commissioners of Cook County," and as such board of commissioners shall have the management of the county affairs of said county, and shall exercise the same powers, perform the same duties, be subject to the

County Boards not under Township Organization to perform Duties of County Court.

same rules, regulations and penalties as prescribed by law for the board of supervisors.

§ 62. The county clerk of Cook county shall be clerk of the board of county commissioners; and all laws applicable to the county clerks of other counties under township organization, shall be applicable to him.

§ 63. Inasmuch as no law exists providing for the organization of the board of county commissioners, in counties not under township organization, and the public interest requires this act to take immediate effect; therefore, this act shall take effect and be in force from and after its passage.

AN ACT AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS, ELECTED IN PURSUANCE OF ARTICLE TEN (10), SECTION SIX (6) OF THE CONSTITUTION, TO PERFORM THE POWERS AND DUTIES HERETOFORE DEVOLVING UPON THE COUNTY COURTS IN THE TRANSACTION OF COUNTY BUSINESS, IN COUNTIES NOT UNDER TOWNSHIP ORGANIZATION.

Approved January 16, 1874. In force January 16, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the board of county commissioners, elected in pursuance of the provisions of section six (6), article ten (10), of the constitution shall be the successors of the county courts in relation to all matters concerning county affairs, and the county board are hereby authorized and empowered to do any act in reference to county government, and county business that the county courts have heretofore done in pursuance of law.

§ 2. Each member of the board of county commissioners shall be commissioned by the governor, and shall, before entering upon the duties of his office, take and subscribe the following oath, which shall be filed in the office of the county clerk:

"I do solemnly swear, (or affirm, *as the case may be,*) that I will support the constitution of the United States and of the State of Illinois, and that I will faithfully discharge the duties of the office of commissioner of county, according to the best of my ability."

§ 3. The county board shall hold regular sessions for the transaction of county business, on the first Mondays of December, March, June and September, and the second Monday of July of each year, and at such other times as may be provided by law, and may hold special sessions on the call of the chairman or any two members of said board, when the business of the county requires it.

§ 4. At the first meeting of the board after the passage of this act, the commissioners shall elect one of their number as chairman, who shall preside

County Clerks. - - - Oath of Office.

at their sessions and perform such duties as are or may be prescribed by law or by the order of said board, and said chairman shall hold the position until the first Monday in December next following, at which time, and annually thereafter, on that day, or as soon thereafter as practicable, a chairman shall be chosen by said board.

§ 5. A majority of said board shall constitute a quorum to do business, and in the absence of the chairman, a chairman *pro tem.* may be appointed.

§ 6. Such board shall have general supervision of all highways, roads and bridges in the county, including state roads.

§ 7. The chairman or any member of the board of county commissioners may administer oaths to persons concerning any matter connected with the powers or duties of said board.

§ 8. The said county commissioners, at their first meeting after the going into effect of this act (where the question as to who shall hold the short, middle and long term has not already been agreed upon by them) shall proceed to determine by lot, in the manner following: The clerk of the county court shall prepare three ballots, upon one of which shall be written the words "one year," upon another of said ballots the words "two years," and upon the third shall be written the words "three years"; and the said commissioners shall then draw, under the direction of the clerk, and the words upon the ballots so drawn shall fix the length of the term that such commissioner shall hold his office. In counties where the said county commissioners have already settled the question by lot as provided in section six (6), article ten (10), of the constitution, nothing herein contained shall be construed to invalidate such action.

§ 9. All acts heretofore done by boards of county commissioners, which might have been done by county courts in counties in which the said courts have not continued to do the business of said counties, are hereby legalized.

§ 10. Whereas, doubts have arisen as to the powers and duties of the county commissioners, in the absence of a general law defining the same; therefore an emergency exists, and this act shall take effect and be in force from and after its passage.

AN ACT TO REVISE THE LAW IN RELATION TO COUNTY CLERKS.

Approved March 24, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That each county clerk, before entering upon the duties of his office, shall take and subscribe the following oath, which shall be entered at large upon the records of his office:

"I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of

Illinois, and that I will faithfully discharge the duties of the office of county clerk of county, according to the best of my ability."

§ 2. Each county clerk shall, before entering upon the duties of his office, give bond in such penalty and with such security as the county board shall deem sufficient, which bond shall be substantially in the following form, and shall be recorded at large upon the records of his office, and when so recorded shall be deposited with the clerk of the circuit court for safe keeping:

"Know all men by these presents, that we, (A B), principal, and (C D) and (E F), sureties, all of the county of and State of Illinois, are held and firmly bound to the People of the State of Illinois, in the penal sum of dollars, for the payment of which, well and truly to be made, we bind ourselves, each of us, our heirs, executors and administrators, firmly by these presents. Signed with our hands and sealed with our seals.

"Dated at, the day of, 18....

"The condition of the above bond is such, that if the above bounden (A B) shall perform all the duties which are or may be required by law to be performed by him as county clerk of the said county of in the time and manner prescribed, or to be prescribed by law, and when he shall be succeeded in office, shall surrender and deliver over to his successor in office, all books, papers, moneys and other things belonging to said county, and appertaining to his said office, then the above bond to be void: otherwise to remain in full force.

"Signed, sealed and delivered in the presence of (G H).

"A B, [SEAL.]

"C D, [SEAL.]

"E F, [SEAL.]"

§ 3. County clerks shall be commissioned by the governor.

§ 4. The county clerk shall keep his office at the court house of his county or at such other place as may be provided for him by the authorities of such county at the county seat.

§ 5. He shall be keeper of the seal of the county, which shall be used by him in all cases where he is required to use an official seal.

§ 6. He may appoint deputies who shall take and subscribe the same oath for the discharge of their duties as is required of him, which shall be entered of record in his office.

§ 7. The principal clerk shall in all cases be responsible for the acts of his deputies.

§ 8. Whenever a vacancy occurs in the office of any county clerk and the unexpired term exceeds one year, the county board of the county shall immediately appoint a clerk *pro tempore*, who shall qualify by giving bond and taking the oath as required of the county clerk, and shall thereupon perform all the duties and be entitled to all the emoluments and be subject to

County Clerks. - - - Their Duties.

all the penalties appertaining to the office of county clerk until the successor of such clerk is elected or appointed and qualified.

§ 9. The county clerks shall have the care and custody of all the records, books and papers appertaining to and filed or deposited in their respective offices, and the same shall be open to the inspection of all persons without reward.

§ 10. The duties of the county clerk shall be —

First — To act as clerk of the county board of his county and to keep an accurate record of the proceedings of said board, file and preserve all bills of account acted upon by the board, and when any account is allowed or disallowed, he shall note that fact thereon, and when a part of any account is allowed he shall note particularly the items allowed.

Second — To keep a book in which he shall enter the number, date and amount of each order upon the county treasurer, and the name of the person in whose favor the same is drawn, and when such order is canceled, he shall note the date of cancellation opposite such entry.

Third — Before any such order is delivered to the person for whose benefit it is drawn, the county clerk shall present the same to the county treasurer, who shall personally countersign the same.

Fourth — To keep a book, in which shall be entered in alphabetical order, by name of the principal, a minute of all official bonds filed in his office, giving the name of the office, amount and date of bond, names of sureties and date of filing, with such reference to the number or other designation of the bond, that the same may be easily found.

Fifth — To keep proper alphabetical indexes of all records and papers in his office.

Sixth — To give any person requiring the same, and paying the lawful fees therefor, a copy of any record, paper or account in his office.

Seventh — Such other duties as are or may be required by law.

CRIMINAL JURISPRUDENCE.

AN ACT TO REVISE THE LAW IN RELATION TO CRIMINAL JURISPRUDENCE.

Approved March 27, 1874. In force July 1, 1874.

Be it enacted by the People of the State of Illinois, represented in the General Assembly :

DIVISION I.

ABDUCTION.

§ 1. *Of Female.*—Whoever entices or takes away any unmarried female of a chaste life and conversation from the parents' house, or wherever she may be found, for the purpose of prostitution or concubinage, and whoever aids and assists in such abduction for such purpose, shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 2. *Of Child.*—Whoever unlawfully takes or decoys away any child under the age of twelve years, with intent to detain or conceal such child from its parents, guardian or other person having the lawful charge of such child, shall be confined in the county jail not exceeding one year, or fined not exceeding two thousand dollars, or both, in the discretion of the court: *Provided*, this section shall not apply to any one who, in good faith, interferes to protect the child from abuse or cruel treatment.

ABORTION.

§ 3. *Producing.*—Whoever, by means of any instrument, medicine, drug or other means whatever, causes any woman, pregnant with child, to abort or miscarry, or attempts to procure or produce an abortion or miscarriage, unless the same were done as necessary for the preservation of the mother's life, shall be imprisoned in the penitentiary not less than one year nor more than ten years; or if the death of the mother results therefrom, the person procuring or causing the abortion or miscarriage shall be guilty of murder.

§ 4. *Ecbolic, or Abortifacient Drugs.*—If any druggist, dealer in medicine, or other person, sells to any person any drug or medicine, known or presumed to be ecbolic or abortifacient, except upon the written prescription of some well known and respectable practicing physician, or keeps on hand, or advertises or exposes for sale, or sells any pills, powders, drugs or combination of drugs designed especially for the use of females, without keeping the certificate as required in the next succeeding section, he shall for each offense be fined not less than fifty dollars nor more than five hundred dollars, or be confined in the county jail not less than thirty days nor more than six

Adulteration.

months, or both: *Provided*, this section shall not be construed to apply to compounds known as "Official."

§ 5. *Certificate required.*—Before any pills, powders, drugs or combination of drugs designed expressly for the use of females, shall be kept or exposed for sale or sold, the proprietor thereof shall submit under oath a true statement of the formula by which the same is compounded, to five well known and respectable practicing physicians, in the county where the same is proposed to be sold, and shall procure their certificate, signed and verified by the affidavit of each of them, that such combination is not abortifacient; and every person keeping on hand, or in any manner advertising or exposing for sale or selling such combination, shall keep such certificate, or a sworn copy thereof, with the formula attached, for the inspection of any person desiring to see the same.

§ 6. *Advertising Abortifacient Drugs.*—Whoever advertises, prints, publishes, distributes or circulates, or causes to be advertised, printed, published, distributed or circulated any pamphlet, printed paper, book, newspaper, notice, advertisement or reference, containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house, shop or office where any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, or any advice, information, direction or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child, shall be punished by imprisonment not exceeding three years, or fine not exceeding one thousand dollars.

ADULTERATION.

§ 7. *Of Food, Candies, etc.*—Whoever fraudulently adulterates, for the purpose of sale, bread or any other substance intended for food, or any candy or confection, with any substance which is poisonous or injurious to health, and whoever sells or offers or keeps for sale, any adulterated bread or other substance intended for food, or candy or confection, knowing the same to be so adulterated, or shall sell, or offer to sell, or keep for sale any flesh of any diseased animal, or other corrupt or unwholesome provisions, shall be confined in the county jail not exceeding one year, or be fined not exceeding one thousand dollars, or both, in the discretion of the court.

§ 8. *Of Liquor.*—Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, with cocculus indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health; and whoever sells or offers or keeps for sale any such liquor so adulterated, shall be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, or both.

§ 9. *Of Milk.*—Whoever adulterates, for the purpose of sale, any milk

Adultery. - - - Arson and Burning.

with water, chalk or other substance, or knowingly sells any such adulterated milk, shall be confined in the county jail not exceeding one year, or fined not exceeding five hundred dollars.

§ 10. *Of Medicine.*—Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells or offers or keeps for sale any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, and such adulterated drugs and medicines shall be forfeited and destroyed.

ADULTERY.

§ 11. *Adultery.*—If any man and woman shall live together in an open state of adultery, or fornication, or adultery and fornication, every such person shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding one year. For a second offense, such man or woman shall be severally punished twice as much as the former punishment, and for a third offense, treble, and thus increasing the punishment for each succeeding offense: *Provided, however,* that it shall be in the power of the party or parties offending, to prevent or suspend the prosecution by their intermarriage, if such marriage can be legally solemnized, and upon the payment of the costs of such prosecution.

§ 12. *Proof.*—The offense of adultery shall be sufficiently proved by circumstances which raise the presumption of cohabitation and unlawful intimacy.

ARSON AND BURNING.

§ 13. *Arson.*—Every person who shall willfully and maliciously burn or cause to be burned any dwelling-house, kitchen, office, shop, barn, stable, store-house, ware-house, malt-house, stilling-house, factory, mill, pottery or other building, the property of any other person, or any church, meeting-house, school-house, state-house, court-house, work-house, jail or other public building, or any boat or other water craft, or any bridge of the value of fifty dollars erected across any of the waters of this state, such person so offending shall be deemed guilty of arson, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term not less than one year nor more than twenty years; and should the life of any person be lost in consequence of any such burning, such offender shall be deemed guilty of murder, and punished accordingly.

§ 14. *To defraud Insurer.*—Whoever willfully and maliciously burns or sets fire to, or causes to be burned or set on fire any building, or any goods, wares, merchandise or other chattels which are at the time insured against loss by fire, with intent to injure the insurer, whether such person is the owner of the property burned or not, shall be imprisoned in the penitentiary not less than one nor more than ten years.

Assault, and Assault and Battery.

§ 15. *Of other Property.*—Whoever willfully and maliciously burns or causes to be burned any barrack, cock, crib, rick, or stack of hay, corn, wheat, oats, barley or other grain or vegetable product of any kind, or any pile of coal, wood or other fuel, or any pile of boards, plank, posts, rails or other lumber, or any personal property whatever, of another, shall be imprisoned in the penitentiary not less than one nor more than six years.

§ 16. *Attempt to Commit.*—Whoever willfully or maliciously sets fire to, or attempts to set fire to any of the buildings or other property mentioned in sections thirteen and fifteen above, with intent to burn or destroy the same, shall be imprisoned in the penitentiary not exceeding two years, and fined not exceeding five thousand dollars.

§ 17. *Of one's own Property.*—If the owner, lessee or occupant of any of the buildings or property mentioned in sections thirteen and fifteen of this act, sets fire or attempts to set fire to or burn the same, with intent to set on fire or burn the building or property of another, he shall be deemed guilty as if the property so set on fire, or attempted to be set fire to or burned, were owned or occupied by another.

§ 18. *Of Woods, Prairies and other Grounds.*—If any person shall, at any time hereafter, willfully and intentionally or negligently and carelessly set on fire, or cause to be set on fire any woods, prairies or other grounds whatsoever, he shall be fined not less than five dollars, nor more than one hundred dollars: *Provided*, this section shall not extend to any person who shall set on fire or cause to be set on fire any woods or prairies adjoining his own farm, plantation or inclosure, for the necessary preservation thereof, from accident by fire, between the last day of November and the first day of March, by giving to his neighbors and the owner or occupant of such land, and any person likely to be affected thereby, two days' notice of such intention: *Provided, also*, this section shall not be construed to take away any civil remedy which any person may be entitled to for any injury which may be done or received in consequence of any such firing.

§ 19. *Indictment.*—In any indictment for the setting fire to or burning, or attempting to set fire to or burn any building, if the building was occupied, it shall be sufficient to allege the building to be the property of the owner, lessee or occupant thereof; if unoccupied, to allege simply that such building was at such time unoccupied, giving a description thereof in general terms.

ASSAULT, AND ASSAULT AND BATTERY.

§ 20. *Assault.*—An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

§ 21. *Assault and Battery.*—Assault and battery is the unlawful beating of another.

§ 22. *Punishment.*—Whoever shall be guilty of an assault, or an assault and battery, shall be fined not less than three dollars nor more than one hundred dollars.

Barratry and Maintenance. - - - Bigamy.

§ 23. *Assault with Intent*.—An assault with an intent to commit murder, rape, mayhem, robbery, larceny, or other felony, shall subject the offender to imprisonment in the penitentiary for a term not less than one year nor more than fourteen years.

§ 24. *With Intent to Murder*.—Whoever attempts to commit murder by poisoning, drowning, strangling or suffocating another, or by any means, shall be guilty of the crime of assault with intent to murder, and punished accordingly.

§ 25. *With Deadly Weapon*.—An assault with a deadly weapon, instrument or other thing, with an intent to inflict upon the person of another a bodily injury, where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant heart, shall subject the offender to a fine not exceeding one thousand dollars nor less than twenty-five dollars, or imprisonment in the county jail for a period not exceeding one year, or both, in the discretion of the court.

BARRATRY AND MAINTENANCE.

§ 26. *Barratry*.—If any person shall wickedly and willfully excite and stir up any suits or quarrels between the people of this state, either at law or otherwise, with a view to promote strife and contention, he shall be deemed guilty of common barratry, and shall be fined not exceeding one hundred dollars; and if he be an attorney or counsellor at law, he shall be suspended from the practice of his profession, for any time not exceeding six months.

§ 27. *Maintenance*.—If any person shall officiously intermeddle in any suit at common law or in chancery, that in nowise belongs to or concerns such person, by maintaining or assisting either party, with money or otherwise, to prosecute or defend such suit, with a view to promote litigation, he shall be deemed guilty of maintenance, and upon conviction thereof, shall be fined and punished as in cases of common barratry: *Provided*, that it shall not be considered maintenance for a man to maintain the suit of his kinsman or servant, or any poor person, out of charity.

BIGAMY.

§ 28. *Punishment*.—Whoever, having a former husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall be deemed guilty of bigamy, and be imprisoned in the penitentiary not less than one nor more than five years, and fined not exceeding one thousand dollars: *Provided*, nothing herein contained shall extend to any person whose husband or wife shall have been continually absent from such person for the space of five years together, prior to the said second marriage, and he or she not knowing such husband or wife to be living within

Bribery.

that time. Also, nothing herein contained shall extend to any person that is, or shall be at the time of such second marriage, divorced by lawful authority from the bands of such former marriage, or to any person where the former marriage hath been, by lawful authority, declared void.

§ 29. *Proof and Venue.*—It shall not be necessary to prove either of the marriages by the register or certificate thereof, or other record evidence; but the same may be proved by such evidence as is admissible to prove a marriage in other cases; the offense may be alleged to have been committed, and the trial may take place in the county where cohabitation shall have occurred.

§ 30. *Marrying a Bigamist.*—If any man or woman being unmarried, shall knowingly marry the husband or wife of another, or continue to cohabit with such husband or wife in this state, such man or woman shall be fined not more than five hundred dollars, or confined in the county jail not exceeding one year, or both in the discretion of the court.

BRIBERY.

§ 31. *Punishment.*—Whoever corruptly, directly or indirectly, gives any money or other bribe, present, reward, promise, contract, obligation or security for the payment of any money, present, reward or any other thing, to any judge, justice of the peace, sheriff, coroner, clerk, constable, jailer, attorney-general, state's attorney, county attorney, member of the general assembly, or other officer, ministerial or judicial, or to any legislative, executive or other officer of any incorporated city, town or village, or any officer elected or appointed by virtue of any law of this state, after his election or appointment, either before or after he is qualified, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding which may be then pending, or may by law come or be brought before him, in his official capacity, or to cause him to execute any of the powers in him vested, or to perform any duty of him required, with partiality or favor, or otherwise than is required by law, or in consideration that such officer being authorized in the line of his duty to contract for any advertising, or for the furnishing of any labor or material, shall directly or indirectly arrange to receive, or shall receive, or shall withhold from the parties so contracted with, any portion of the contract price, whether that price be fixed by law or by agreement, or in consideration that such officer hath nominated or appointed any person to any office, or exercised any power in him vested, or performed any duty of him required, with partiality or favor, or otherwise contrary to law, the person so giving, and the officer so receiving any money, bribe, present, reward, promise, contract, obligation or security, with intent or for the purpose or consideration aforesaid, shall be deemed guilty of bribery, and shall be punished by confinement in the penitentiary for a term not less than one year nor more than five years.

§ 32. *Offering to give or receive.*—Every person who shall offer or at-

Bribery.

tempt to bribe any member of the general assembly, judge, justice of the peace, sheriff, coroner, clerk, constable, jailer, attorney-general, state's attorney, or other officer, ministerial or judicial, or any legislative, executive, or other officer of any incorporated city, town or village, or any officer elected or appointed by virtue of any law of this state, in any of the cases mentioned in the preceding section, and every such officer who shall propose or agree to receive a bribe in any of such cases, shall be fined not exceeding five thousand dollars.

§ 33. *Of Judicial Officers.*—Whoever corrupts, or attempts, directly or indirectly, to corrupt any master in chancery, auditor, juror, arbitrator, umpire or referee, by giving, offering or promising any gift or gratuity whatever, with intent to bias the opinion, or influence the decision of such master in chancery, auditor, juror, arbitrator, umpire or referee, in relation to any matter pending in the court, or before an inquest, or for the decision of which such arbitrator, umpire or referee has been chosen or appointed, and every such official who receives, or offers, or agrees to receive a bribe in any of the cases above mentioned, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding one thousand dollars, and confined in the county jail not exceeding one year.

§ 34. *Of Sheriff, Constable, etc.*—If a sheriff, constable or other officer authorized to serve legal process, receives from a defendant, or from any other person, any money or other valuable thing as a consideration, reward or inducement, for omitting or delaying to arrest a defendant, or to carry him before a magistrate, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be fined not exceeding three hundred dollars, or confined in the county jail not exceeding three months.

§ 35. *Witness.*—Whenever, in any investigation before a grand jury, or the trial of any person charged with any offense mentioned in either of the four preceding sections, it shall appear to the court that another person than the one charged is a material and necessary witness in the case and that his testimony would tend to criminate himself, the court may cause an order to be entered of record that such witness be released from all liability to be prosecuted or punished on account of any matter to which he shall be required to testify, and upon such order being entered, such witness shall be compelled to testify; and if he shall testify, such order shall forever after be a bar to any indictment, information or prosecution against him for such matter. And when any such witness is admitted to testify on the trial, and does so testify, the defendant shall also at his own request be deemed a competent witness, but his neglect or refusal to testify shall not create any presumption against him nor shall the court permit any reference or comment to be made to or upon such neglect or refusal.

Burglary. - - - Canada Thistles.

BURGLARY.

§ 36. *Punishment.*—Whoever, in the night-time, willfully and maliciously and forcibly breaks and enters, or willfully and maliciously, without force, (the doors or windows being open) enters into any dwelling-house, kitchen, office, shop, store-house, ware-house, malt-house, stilling-house, mill, pottery, factory, water-craft, freight or passenger railroad car, church, meeting-house, or any other building, with the intent to commit murder, robbery, rape, mayhem, larceny or other felony, shall be deemed guilty of burglary, and be imprisoned in the penitentiary for a term not less than one year nor more than twenty years.

§ 37. *Attempt to Commit.*—Whoever shall attempt to break and enter in the night-time any building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny or other felony, shall be imprisoned in the penitentiary not less than one nor more than five years.

§ 38. *Burglar found in Building.*—Whoever is found in any building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny or other felony, shall be imprisoned in the penitentiary not less than one year nor more than five years.

§ 39. *Having Burglar's Tools.*—Whoever is found having any pick-lock, crow, key, bit or other instrument or tool, with intent to break and enter any building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny or other felony, shall be imprisoned in the penitentiary not less than one nor more than two years.

CANADA THISTLES.

§ 40. *Bringing into the State, or Allowing to Seed.*—Whoever shall bring into this state, whether in the packing of goods, or in grain or grass seed, or otherwise, any seed of the Canada thistle, and permit the same to be disseminated so as to vegetate on any land in this state, and whoever shall permit any Canada thistle to mature its seed on any land owned or occupied by him, so that the same is or may be disseminated, shall be fined not less than ten nor more than one hundred dollars; the fine to be paid to the commissioner of Canada thistles if any is appointed in the town, precinct, city or village, or otherwise as directed by law.

§ 41. *Railroads to Destroy.*—If any company, association or person, owning, controlling or operating, a railroad, shall refuse or neglect to dig up and destroy, or take other certain means of exterminating Canada thistles, and other noxious weeds that may at any time be growing upon the right of way, or other lands of such road, or appertaining thereto, they shall be fined for each offense not less than fifty nor more than two hundred dollars; the fine to be paid as in the preceding section.

Castor Beans. - Compounding a Crime. - Concealing Death of Bastard. - Conspiracy.

CASTOR BEANS.

§ 42. *Failure to Protect.*—Whoever plants or raises castor beans without protecting them from the approach of cattle or other stock, by a good and lawful fence, shall be fined not less than three dollars nor more than one hundred dollars, and in a like sum for each day he shall allow the same to remain so unprotected after having been once fined: *Provided*, the provisions of this section shall not apply to any county where domestic animals are by law prohibited from running at large.

COMPOUNDING A CRIME.

§ 43. *Punishment.*—Whoever takes money, goods, chattels, lands or other reward, or promise thereof, to compound any criminal offense, shall be fined in double the sum or value of the thing agreed for or taken; but no person shall be debarred from taking his goods or property from the thief or felon, or receiving compensation for the private injury occasioned by the commission of any such criminal offense.

CONCEALING DEATH OF BASTARD.

§ 44. *Punishment.*—If any woman shall endeavor, privately, either by herself or by the procurement of others, to conceal the death of any issue of her body, which if born alive would be a bastard, so that it may not come to light, whether it shall have been murdered or not, she shall suffer confinement in the county jail for a term not exceeding one year: *Provided, however*, that nothing herein contained shall be so construed as to prevent such mother from being indicted and punished for the murder of such bastard child.

CONSPIRACY.

§ 45. *To Indict.*—If any two or more persons shall conspire or agree, falsely and maliciously, to charge or indict, or cause or procure to be charged or indicted by any person for any criminal offense, each of the persons so offending shall be fined not exceeding one thousand dollars, and confined in the county jail not exceeding one year.

§ 46. *To do Illegal Act.*—If any two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business or property of another, or to obtain money or other property by false pretenses, or to do any illegal act, injurious to the public trade, health, morals, police, or administration of public justice, or to prevent competition in the letting of any contract by the state or the authorities of any county, city, town or village, or to induce any person not to enter into such competition, or to commit any felony,

Crime against Nature. - - - Criminal Carelessness. - - - Cruelty.

they shall be deemed guilty of a conspiracy; and every such offender, and every person convicted of conspiracy at common law, shall be imprisoned in the penitentiary not exceeding three years, or fined not exceeding one thousand dollars.

CRIME AGAINST NATURE.

§ 47. *Punishment.*—The infamous crime against nature, either with man or beast, shall subject the offender to be punished by imprisonment in the penitentiary for a term not more than ten years.

§ 48. *Emission.*—It shall not be necessary to prove emission, to convict any person of the crime against nature.

CRIMINAL CARELESSNESS.

§ 49. *Of Common Carrier.*—Whoever, having personal management or control of or over any steamboat, or other public conveyance used for the common carriage of persons, is guilty of gross carelessness or neglect in, or in relation to, the conduct, management or control of such steamboat, or other public conveyance, while being so used for the common carriage of persons, whereby the safety of any person shall be endangered, shall be imprisoned in the penitentiary not exceeding three years, or fined not exceeding five thousand dollars.

CRUELTY.

§ 50. *Cruelty to Animals.*—Whoever shall be guilty of cruelty to any animal in any of the ways mentioned in this section, shall be fined not less than three dollars, nor more than two hundred dollars, viz:

First—By overloading, overdriving, overworking, cruelly beating, torturing, tormenting, mutilating, or cruelly killing any animal, or causing, or knowingly allowing the same to be done.

Second—By cruelly working any old, maimed, infirm, sick or disabled animal, or causing, or knowingly allowing the same to be done.

Third—By unnecessarily failing to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink and shelter.

Fourth—By abandoning any old, maimed, infirm, sick or disabled animal.

Fifth—By carrying or driving, or causing to be carried or driven or kept, any animal in an unnecessarily cruel manner.

§ 51. *By Railroads and Carriers.*—No railroad company or other common carrier in the carrying or transportation of any cattle, sheep, swine, or other animals, shall allow the same to be confined in any car more than twenty-eight consecutive hours (including the time they shall have been upon any other road), without unloading for rest, water and feeding, for at least five consecutive hours, unless delayed by storm or accident, when they

Currency Unauthorized. - - - Disorderly Conduct.

shall be so fed and watered as soon after the expiration of such time as may reasonably be done. When so unloaded, they shall be properly fed, watered, and sheltered during such rest by the owner, consignee or person in custody thereof, and in case of their default, then by the railroad company transporting them, at the expense of said owner, consignee, or person in custody of the same; and such company shall have a lien upon the animals until the same is paid. A violation of this section shall subject the offender to a fine of not less than three dollars nor more than two hundred dollars.

§ 52. *Bull Baiting, Cock Fighting, etc.*—Whoever shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and every person who shall engage, encourage, aid or assist therein, or who shall permit or suffer any place to be so kept or used, and every person who shall visit such place so kept or used, or who shall be found therein, shall be fined not less than three dollars nor more than two hundred dollars.

§ 53. *Cruelty to Children and Others.*—Any person who shall willfully and unnecessarily expose to the inclemency of the weather, or shall, in any other manner, injure in health or limb, any child, apprentice, or other person under his legal control, shall be fined not exceeding five hundred dollars, or imprisonment in the penitentiary not exceeding five years.

CURRENCY UNAUTHORIZED.

§ 54. *Issuing or Uttering.*—Whoever issues or passes any note, bill, order or check, other than foreign bills of exchange, the notes or bills of the United States, or of some bank incorporated by the laws of this state, or of the United States, or of some one of the United States, or by the laws of either of the British provinces in North America, with intent that the same shall be circulated as currency, shall be fined not less than one hundred nor more than one thousand dollars for each offense, and shall not be permitted to collect any demand arising therefrom.

DISORDERLY CONDUCT.

§ 55. *Punishment.*—Whoever shall be guilty of open lewdness, disorderly conduct, or other notorious act of public indecency, tending to debauch the public morals, shall be fined not exceeding two hundred dollars.

§ 56. *Disturbing the Peace.*—Whoever, at a late and unusual hour of the night time, willfully and maliciously disturbs the peace and quiet of any neighborhood or family, by loud or unusual noises, or by tumultuous and offensive carriage, threatening, traducing, quarreling, challenging to fight or fighting, or whoever shall carry concealed weapons, or in a threatening manner display any pistol, knife, slungshot, brass, steel or iron knuckles, or

Disorderly Conduct.

other deadly weapon, day or night, shall be fined not exceeding one hundred dollars.

§ 57. *Disorderly House—ill fame.*—Whoever keeps or maintains a house of ill fame, or place for the practice of prostitution or lewdness, or whoever patronizes the same, or lets any house, room or other premises for any such purpose, or shall keep a common, ill-governed and disorderly house, to the encouragement of idleness, gaming, drinking, fornication or other misbehavior, shall be fined not exceeding two hundred dollars. When the lessee or keeper of a dwelling-house or other building is convicted under this section, the lease or contract for letting the premises shall, at the option of the lessor, become void, and the lessor may have the like remedy to recover the possession as against a tenant holding over after the expiration of his term, and whoever shall lease to another any house, room or other premises in whole or in part for any of the uses or purposes finable under this section, or knowingly permits the same to be so used or occupied, shall be fined not exceeding two hundred dollars, and the house or premises so leased, occupied or used, shall be held liable for and may be sold for any judgment obtained under this section, but if such building or premises belongs to a minor or other person under guardianship, then the guardian or conservator and his property shall be liable instead of such ward, and his property shall be subject to be sold for the payment of said judgment.

§ 58. *Disturbing Religious Meeting.*—Whoever, by menace, profane swearing, vulgar language, or any disorderly or unusual conduct, interrupts or disturbs any assembly of people met for the worship of God, shall be fined not exceeding one hundred dollars.

§ 59. *Disturbing Camp and Field Meeting.*—Whoever, during the time of holding any camp or field meeting for religious purposes, and within one mile of the place of holding such meeting, hawks or peddles goods, wares or merchandise, or, without permission of the authorities having charge of such meeting, establishes any tent, booth or other place for vending provisions or refreshments, or sells or gives away, or offers to sell or give away, any spirituous liquor, wine, cider or beer, or practices or engages in gaming or horse-racing, or exhibits or offers to exhibit any show or play, shall be fined not exceeding one hundred dollars for each offense: *Provided*, that whoever has his regular place of business within such limits is not hereby required to suspend his business.

§ 60. *Disturbing any School, etc.*—Whoever willfully interrupts or disturbs any school or other assembly of people, met for a lawful purpose, shall be fined not exceeding one hundred dollars.

§ 61. *Disturbing Funeral.*—Whoever willfully interrupts or disturbs a funeral assembly or procession, shall be fined not exceeding one hundred dollars.

DRUGS.

§ 62. *To be Labeled.*—Every druggist, or other person who shall sell and deliver any arsenic, strychnine, corrosive sublimate, prussic acid or any other substance or liquid usually denominated as poisonous, without having the word “poison” written or printed upon a label attached to the phial or parcel in which such drug is contained, or shall sell and deliver any drug or medicine other than upon the prescription of a physician, without having the name of such drug or medicine printed or written upon a label attached to the phial or parcel containing the same, shall be fined not exceeding twenty-five dollars.

§ 63. *Selling Poisonous.*—If any druggist or other person sells, or gives away any arsenic, strychnine, corrosive sublimate or prussic acid without the written prescription of a physician, and fails to keep a record of the date of such sale or gift, the article and amount thereof sold or given away, and the person to whom delivered, he shall be fined not exceeding fifty dollars for each neglect. Whoever purchases any such poison and gives a false or fictitious name, shall be punished in the same manner.

DRUNKENNESS.

§ 64. *Punishment.*—Any intoxicated person found in any street, highway, or other public place, or so found disturbing the peace of the public, or of his own or any other family in any private building or place, shall for the first offense be fined not more than five dollars, and upon any subsequent conviction shall be fined not exceeding twenty-five dollars. Prosecutions under this section shall be commenced within thirty days after the offense is committed, and the justice of the peace may remit the punishment, in whole or in part, when he is satisfied the public welfare and the good of the offender require it.

DUELING.

§ 65. *Punishment.*—Whoever fights a duel with any deadly weapon, although no death ensues, and every second, and whoever aids and abets in such duel, shall be imprisoned in the penitentiary not less than one nor more than five years, or be fined not exceeding three thousand dollars.

§ 66. *Sending, Accepting or Carrying Challenge.*—Whoever challenges another to fight a duel with any deadly weapon, or sends or delivers any written or verbal message, purporting or intended to be such challenge, or accepts any such challenge or message, and whoever knowingly carries or delivers any such challenge or message, shall be imprisoned in the penitentiary not less than one, nor more than five years, or fined not exceeding three thousand dollars.

§ 67. *Disabilities.*—Whoever shall be convicted under either of the

Dueling.

two preceding sections shall be incapable of holding or being elected to any office of profit, trust or emolument, either civil or military, under the constitution or laws of this state.

§ 68. *By Appointment Made Within the State.*—Whoever, being an inhabitant or resident of this state, by previous appointment or engagement made within the same, fights a duel without the jurisdiction of the state, and in so doing inflicts a mortal wound upon any person, whereof such person afterwards dies within this state, and every second engaged in such duel, shall be deemed guilty of murder within this state, and may be indicted, tried and convicted in the county where such death shall happen.

§ 69. *Leaving the State to Engage In.*—If any inhabitant of this state shall leave the same for the purpose of eluding the operation of the provisions herein contained respecting dueling or challenges to fight, with intent of giving or receiving any challenge herein prohibited, or of aiding or abetting in giving or receiving such challenge, and shall give or receive any such challenge, or shall aid or abet in giving or receiving the same, without this state, he shall be deemed as guilty, and shall be subject to the like punishment and disabilities as if the offense had been committed within this state.

§ 70. *Former Recovery.*—Every person indicted under either of the two preceding sections may plead a former conviction or acquittal of the same offense in another state or country, and if such plea be admitted or established, it shall be a bar to any further proceedings against such person for the same offense.

§ 71. *Indictment.*—It shall not be necessary in an indictment against any person for fighting a duel, or against his seconds, aiders, abettors or counselors, or against any person for sending or accepting a challenge, or for carrying any challenge, or delivering any message intended as or purporting to be a challenge, or for being present at the fighting of any duel as a second, or for aiding or giving countenance to any duel, or the sending or accepting any challenge, to specify the nature or kind of the engine, instrument or weapon with which the duel shall be fought or intended to be fought, so that it be alleged in the indictment that the engine, weapon, or instrument was deadly, the probable consequence of fighting with which might be the death of the parties.

§ 72. *Officer to Prevent.*—If any judge, justice of the peace, sheriff, or other officer, bound to preserve the public peace, shall have knowledge of an intention on the part of any two persons to fight with any deadly weapon or weapons, and such officer shall not use and exert his official authority to arrest the parties and prevent the duel, every such officer shall be fined not exceeding one hundred dollars.

§ 73. *Publishing as Coward.*—If any person shall, in any newspaper or handbill, written or printed, publish or proclaim any other person as a coward, or use any other opprobrious or abusive language, for not accepting a challenge to fight a duel, or for not fighting a duel, such person so offending, on con-

Embezzlement.

viction, shall be fined not exceeding five hundred dollars, or imprisoned not exceeding three months. The publisher or printer of any such newspaper, handbill, or other publication, may be summoned as a witness, and shall be required to testify against the writer of such handbill or publication; and if any such printer shall refuse to testify in relation to the premises, either before the grand or petit jury, he shall be deemed guilty of a flagrant contempt of the court, and may be punished by fine and imprisonment, or either: *Provided*, that the testimony given by any such witness shall, in no case, be used in any prosecution against such witness.

EMBEZZLEMENT.

§ 74. *Embezzlement is Larceny.*—Whoever embezzles or fraudulently converts to his own use, or secretes, with intent to embezzle or fraudulently convert to his own use, money, goods or property delivered to him, which may be the subject of larceny, or any part thereof, shall be deemed guilty of larceny.

§ 75. *By Officers of Corporations, etc.*—If any officer, agent, clerk, or servant of any incorporated company, or if a clerk, agent, servant, or apprentice of any person or copartnership, or society, embezzles or fraudulently converts to his own use, or takes and secretes with intent so to do, without the consent of his company, employer or master, any property of such company, employer, master, or another, which has come to his possession, or is under his care by virtue of such office or employment, he shall be deemed guilty of larceny.

§ 76. *By Banker, Bank Officer or Agent.*—If any banker or broker, or his agent or servant, or any officer, agent or servant of any banking company, or incorporated bank, fraudulently converts to his own use, or fraudulently takes and secretes, with intent so to do, any bullion, money, note, bill, bond, or other property belonging to and in possession of such bank, banker, broker or banking company, or belonging to any person and deposited therein or therewith, he shall, whether intrusted with the custody thereof or not, be deemed guilty of larceny.

§ 77. *Of Railroad Ticket.*—Whenever any person in the employ of any railroad company, whether such company is incorporated by this or any other state, shall fraudulently neglect to cancel or return to the proper officer, company or agent, any coupon or other railroad ticket or pass, with the intent to permit the same to be used in fraud or injury of any such company; or if any person shall steal or embezzle any such coupon or other railroad ticket or pass, or shall fraudulently stamp, or print, or sign any such ticket, coupon or pass, or shall fraudulently sell or put in circulation any such ticket, coupon or pass, the person so offending shall be punished by imprisonment in the penitentiary for the term of one year.

§ 78. *By Commission Merchants and others.*—If any warehouse-man,

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storage, forwarding or commission merchant, or other person selling on commission, or his agent, clerk or servant, shall convert to his own use any fruit, grain, flour, beef, pork or other property, or the proceeds or avails thereof, without the consent of the owner thereof, or shall fail to pay over the avails or proceeds thereof, less his proper charges, on demand by the person entitled to receive the same, or his duly authorized agent, he shall be fined not exceeding one thousand dollars, or confined in the county jail not exceeding one year, or both; and shall be liable to the person injured in double the value of the property or amount of the money so converted.

§ 79. *By Attorneys and other Officers.*— If any attorney at law, justice of the peace, constable, clerk of a court, or other person authorized by law to collect money, shall fail or refuse to pay over any money collected by him, less his proper charges, on demand by the person entitled to receive the same, or his agent duly authorized, he shall be fined not exceeding double the amount retained by him, or confined in the county jail not exceeding one year, or both, and be removed from office, and thereafter he shall be ineligible to be elected or appointed to, or hold any office under the constitution or laws of this state. And if such offender is an attorney at law, he shall thereafter be forever prohibited from practicing his profession in this state.

§ 80. *By Public Officer or his Servant.*— If any state, county, township, city, town, village or other officer elected or appointed under the constitution or laws of this state, or any clerk, agent, servant or employee of any such officer, embezzles or fraudulently converts to his own use, or fraudulently takes or secretes with intent so to do, any money, bonds, mortgages, coupons, bank bills, notes, warrants, orders, funds or securities, books of record, or of accounts, or other property belonging to, or in the possession of the state or such county, township, city, town or village, or in possession of such officer by virtue of his office, he shall be imprisoned in the penitentiary not less than one nor more than fifteen years.

§ 81. *By Public Officer in Loaning or using Public Funds.*— If any state, county, township, city, town, village or other officer, elected or appointed under the constitution or laws of this state; master in chancery, commissioner or other officer of any court, or any clerk, agent, servant or employé of any such officer, shall use by way of investment or loan for his own use, except as authorized by law, with or without interest, any portion of the money, bonds, mortgages, coupons, bank bills, notes, warrants, orders or other funds, or securities intrusted to him for safe keeping, disbursement, transfer or other purpose, if the sum or value of the property so used does not exceed one hundred dollars, he shall be fined not exceeding two hundred dollars, or confined in the county jail not exceeding three months, or both; or if the sum or value of the property so used or loaned exceeds one hundred dollars, he shall be fined in double the amount so used or loaned, or confined in the county jail not exceeding one year, or both.

§ 82. *Indictment.*— In prosecutions for the offense of embezzling, fraudu-

Escape.

lently converting to one's own use, or fraudulently taking or secreting with intent so to embezzle and convert the bullion, money, notes, bank notes, checks, drafts, bills of exchange, obligations or other securities for money, of any person, bank, incorporated company or copartnership, by a cashier or other officer, clerk, agent or servant of such person, bank, incorporated company or copartnership, it shall be sufficient to allege generally in the indictment an embezzlement, fraudulent conversion, or taking with such intent, of funds of such person, bank, incorporated company or copartnership to a certain value or amount, without specifying any particulars of such embezzlement, and on the trial, evidence may be given of any such embezzlement, fraudulent conversion, or taking with such intent, and it shall be sufficient to maintain the charge in the indictment, if it is proved that any bullion, money, note, bank note, check, draft, bill of exchange, or other security for money of such person, bank, incorporated company or copartnership, of whatever value or amount, was fraudulently embezzled, converted or taken with such intent, by such cashier or other officer, clerk, agent or servant.

ESCAPE.

§ 83. *By Refusal of Officer to Arrest.*—Every sheriff, jailer, coroner, policeman or other officer authorized to make arrests, or to have the custody, of prisoners, who willfully and corruptly refuses to arrest or confine any person charged with or convicted of any offense, or willfully and corruptly omits or delays to execute any process to him directed, whereby the offender escapes, shall be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, or both, and may be removed from his office.

§ 84. *Aiding a Prisoner.*—Whoever aids or assists a prisoner in escaping or attempting to escape from an officer, or person who has the lawful custody of such prisoner, shall be confined in the county jail not exceeding one year, or fined not exceeding five hundred dollars.

§ 85. *Rescue.*—Whoever rescues or attempts to rescue a prisoner from an officer or person who has the lawful custody of such prisoner, shall be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, or both.

§ 86. *The Preceding extend to Civil Process.*—The two preceding sections shall extend to civil as well as criminal process, but in no case shall the fine exceed the sum for which the civil process issued.

§ 87. *Rescue of Prisoner Charged with High Crime before Conviction.*—Whoever sets at liberty or rescues, or attempts to set at liberty or rescue, a person charged with the commission of any capital offense or crime punishable by imprisonment in the penitentiary, before the conviction of such person, shall be imprisoned in the penitentiary not exceeding five years, and fined not exceeding one thousand dollars.

§ 88. *Rescue of Prisoner Convicted of High Crime.*—Whoever sets at

Extortion by Threats.

liberty or rescues, or attempts to set at liberty or rescue, any person found guilty or convicted of a crime the punishment of which is death, shall be imprisoned in the penitentiary not less than one nor more than fourteen years. Whoever shall set at liberty or rescue, or attempt to set at liberty or rescue, any prisoner found guilty or convicted of a crime the punishment of which is imprisonment in the penitentiary, shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 89. *Officer Allowing before Conviction.*—If any sheriff, coroner, jailer, keeper of a prison, constable or other officer or person having any prisoner in his legal custody, before conviction, shall voluntarily suffer or permit such prisoner to escape or go at large, such officer or person so offending shall be fined not exceeding one thousand dollars, and confined in the county jail not exceeding six months: *Provided*, that if such prisoner be in custody charged with murder or other capital offense, then such officer or person suffering or permitting such escape, shall be punished by confinement in the penitentiary for any term not less than one year, nor more than ten years. A negligent escape of a person charged with a criminal offense, before conviction, from the custody of any of the aforesaid officers, shall be punished by fine not exceeding one thousand dollars.

§ 90. *Officer Allowing after Conviction.*—If any sheriff, deputy sheriff, coroner, jailer, or other officer, shall fraudulently contrive, procure, conceal, aid, connive at or otherwise voluntarily suffer the escape of any convict in his custody, or conceal or assist any convict, after he has escaped, he shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 91. *Officer of Penitentiary Allowing.*—If the warden or any officer, guard, agent, servant of, or person employing convicts in or about the penitentiary, shall contrive, procure, aid, connive at, conceal or assist the escape of any convict from the penitentiary, or conceal or assist any convict after he has escaped, he shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 92. *Aiding Escape.*—Whoever conveys into the penitentiary, or into any jail or other place of confinement any disguise, instrument, tool, weapon or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or by any means whatever aids or assists such prisoner to escape therefrom, whether such escape is effected or attempted or not, or conceals or assists any convict after he has escaped, shall be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, or both.

EXTORTION BY THREATS.

§ 93. *Punishment.*—Whoever, either verbally, or by written or printed communication, maliciously threatens to accuse another of a crime or misdemeanor, or to expose or publish any of his infirmities or failings, with

False Heir. - - - False Imprisonment. - - - False Pretenses.

intent to extort money, goods, chattels or other valuable thing, or threatens to maim, wound, kill or murder, or to burn or destroy his house or other property, or to accuse another of a crime or misdemeanor, or expose or publish any of his infirmities or failings, though no money, goods, chattels or valuable thing be demanded, shall be fined in a sum not exceeding five hundred dollars, and imprisoned not exceeding six months.

FALSE HEIR.

§ 94. Every person who shall fraudulently produce an infant, falsely pretending it to have been born of parents whose child would be entitled to a share of any personal estate, or to inherit any real estate, with the intent of intercepting the inheritance of any such real estate, or the distribution of any such personal property from any person lawfully entitled thereto, shall be imprisoned in the penitentiary not exceeding ten years.

FALSE IMPRISONMENT.

§ 95. *Definition — Punishment.*—False imprisonment is an unlawful violation of the personal liberty of another, and consists in confinement or detention without sufficient legal authority. Any person convicted of false imprisonment shall be fined in any sum not exceeding five hundred dollars, or imprisoned not exceeding one year in the county jail.

FALSE PRETENSES.

§ 96. *Obtaining Signature or Goods.*—Whoever, with intent to cheat or defraud another, designedly by color of any false token or writing, or by any false pretense, obtains the signature of any person to any written instrument, or obtains from any person any money, personal property or other valuable thing, shall be fined in any sum not exceeding two thousand dollars, and imprisoned not exceeding one year, and shall be sentenced to restore the property so fraudulently obtained, if it can be restored. No indictment for the obtaining of any property or thing by any false pretense or pretenses, shall be quashed, nor shall any person indicted for such offense be acquitted, for the reason that the facts set forth in the indictment, or appearing in evidence, may amount to a larceny or other felony; nor shall it be deemed essential to a conviction, that the property in the goods or things so obtained shall pass with the possession to the person so obtaining it.

§ 97. *Obtaining Credit By.*—Whoever, by any false representation in writing, signed by him, of his own respectability, wealth, or mercantile correspondence or connections, obtains credit, and thereby defrauds any person of money, goods, chattels or any valuable thing, or whoever procures another to make a false report in writing, signed by the person making the same, of his honesty, wealth, mercantile correspondence or connections, and

Falsely Personating Another.

thus obtains credit, and thereby defrauds any person of any money, goods, chattels or other valuable thing, shall be sentenced to return the money or property so fraudulently obtained, if it can be done, and shall be fined not exceeding two thousand dollars, and confined in the county jail not exceeding one year.

§ 98. *Confidence Game*.—Every person who shall obtain, or attempt to obtain from any other person or persons, any money or property, by means or by use of any false or bogus checks, or by any other means, instrument or device, commonly called the confidence game, shall be imprisoned in the penitentiary not less than one year nor more than ten years.

§ 99. *Confidence Game—Indictment*.—In every indictment under the preceding section, it shall be deemed and held a sufficient description of the offense, to charge that the accused did, on, etc., unlawfully and feloniously obtain, or attempt to obtain (as the case may be), from A B (here insert the name of the person defrauded, or attempted to be defrauded), his money (or property, in case it be not money) by means and by use of the confidence game.

§ 100. *Swindling by Cards, Sleight of Hand, etc.*—Whoever, by the game of “three card monte,” so-called, or any other game, device, sleight of hand, pretensions to fortune telling, trick, or other means whatever, by use of cards or other implements or instruments, fraudulently obtains from another person property of any description, shall be punished as in case of larceny of property of like value.

§ 101. *False Weights and Measures*.—If any person shall knowingly sell by false weights or measures, or shall knowingly use false measures at any mill, in taking toll for grinding corn, wheat, rye or other grain, he shall be deemed a common cheat, and on conviction, shall be fined not less than two hundred dollars, and imprisoned not exceeding three months.

§ 102. *Falsely Assuming an Office*.—Whoever falsely assumes or pretends to be a justice of the peace, sheriff, deputy sheriff, coroner, constable, police officer, watchman or other officer, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be confined in the county jail not exceeding one year, or fined not exceeding five hundred dollars.

FALSELY PERSONATING ANOTHER.

§ 103. *Receiving Money or Property*.—Whoever falsely personates or represents another, and in such assumed character, receives any money or property intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed to have committed larceny of the money or property so obtained.

§ 104. *Performing Various Acts*.—Every person who shall falsely represent or personate another, and in such assumed character shall:

Forgery and Counterfeiting.

First — Marry another ; or,

Second — Become bail or surety for any party in any proceeding, civil or criminal, before any court or officer authorized to take such bail or surety ; or,

Third — Confess any judgment ; or,

Fourth — Acknowledge the execution of any conveyance of real estate, or of any other instrument which by law may be recorded ; or,

Fifth — Do any act in the course of any suit, proceeding or prosecution, whereby any person, or body politic, may be injured, in any event, or his rights or interests may in any manner be effected, shall be imprisoned in the penitentiary not less than one nor more than ten years.

FORGERY AND COUNTERFEITING.

§ 105. *Of Records, Writings, etc.*—Every person who shall falsely make, alter, forge or counterfeit any record or other authentic matter of a public nature, or any charter, letters patent, deed, lease, indenture, writing obligatory, will, testament, codicil, annuity bond, covenant, post note, check, draft, bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, power of attorney, any auditor's warrant for the payment of money at the treasury, county order or any accountable receipt, or any order or warrant, or request for the payment of money or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing or acquittance, release or receipt for money or goods, or any acquittance, release or discharge for any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property whatever, or any letter of attorney or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, dispose of, alien or convey any goods or chattels, lands or tenements or other estate, real or personal, or any acceptance or indorsement of any bill of exchange, promissory note, draft or order, or assignment of any bond, writing obligatory, or promissory note for money or other property ; or any ticket or pass for the passage of any person upon any railroad or other conveyance, or for the admission of any person to any entertainment for which a consideration is required, or any other written instrument of another, or purporting to be such, by which any pecuniary demand or obligation, or any right in any property is, or purports to be created, increased, conveyed, transferred, diminished or destroyed ; or shall counterfeit or forge the seal or handwriting of another, with intent to damage or defraud any person, body politic or corporate, whether the said person, body politic or corporate reside in, or belong to this state or not ; or shall utter, publish, pass or attempt to pass as true and genuine, or cause to be uttered, published, passed or attempted to be passed as true and genuine, any of the above named false, altered, forged or counterfeited matters, as above specified

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and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, damage or defraud any person, body politic or corporate, whether the said person, body corporate or politic reside in this state or not; every person so offending shall be deemed guilty of forgery, and shall be imprisoned in the penitentiary not less than one year nor more than fourteen years.

§ 106. *Of Public Securities, Bank Bills, etc.*—Whoever, with intent to defraud, falsely makes, alters, forges or counterfeits any public security, issued in any form, or purporting to be by authority of the United States, or of any state or territory thereof, or any indorsement or writing purporting to be a transfer thereof, or any bank bill or promissory note, issued or purporting to be by any bank or banking company in this state, or within the United States, or any of the territories thereof, or any foreign province, state or government; and whoever has in his possession or receives from another, with intent to utter or pass, or utters or passes, or tenders in payment, as true, any such false, altered, forged or counterfeited bill or note, with intent to injure or defraud any person, shall be imprisoned in the penitentiary not less than one nor more than twenty years.

§ 107. *Fictitious Bills, Notes, etc.*—Whoever shall make, pass, utter or publish with an intention to defraud any other person, or with like intention shall attempt to pass, utter or publish, or shall have in his possession, with like intent to pass, utter or publish, any fictitious bill, note or check purporting to be the bill, note or check, or other instrument of writing for the payment of money or property of some bank, corporation, co-partnership, or individual, when in fact there shall be no such bank, corporation, co-partnership or individual in existence, the said person knowing the said bill, note, check or instrument of writing for the payment of money or property to be fictitious, shall be imprisoned in the penitentiary not less than one nor more than twenty years.

§ 108. *Connecting Parts of Several Bills.*—Whoever fraudulently connects together different parts of several bank notes or other genuine instruments, in such a manner as to produce one additional note or instrument, with intent to pass all of them as genuine, shall be deemed guilty of forgery in like manner as if each of them had been falsely made or forged, and punished accordingly.

§ 109. *Proof by Experts.*—Persons of skill shall be competent to testify as to the genuineness of any bill, note or other instrument alleged to be forged or counterfeited.

§ 110. *Proof of Corporation.*—On the trial of any person for forging any bill or note, purporting to be the bill or note of some incorporated company or bank, or for passing or attempting to pass, or having in possession with intent to pass any such forged bill or note, it shall not be necessary to prove the incorporation of such bank or company by the charter or act of incorporation, but the same may be proved by general reputation.

Forgery and Counterfeiting.

§ 111. *Coin*.—Every person who shall counterfeit any of the species of gold or silver coin current by law or usage in this state, or any foreign state or country, or shall pass or give in payment, or offer to pass or give in payment such counterfeited coin, or permit, cause or procure the same to be altered or passed with intention to defraud any person, body politic or corporate, knowing the same to be counterfeited, shall be deemed guilty of counterfeiting, and imprisoned in the penitentiary for a term not less than one year, nor more than fourteen years.

§ 112. *Possession of Counterfeit Coin*.—Every person who shall have in his possession, or receive for any other person, any counterfeit gold or silver coin or coins of the species current by law or usage in this state, with intention to utter or pass the same, or to permit, cause or procure the same to be uttered or passed, with intention to defraud any person or body politic or corporate, knowing the same to be counterfeit, shall be imprisoned in the penitentiary not less than one nor more than fourteen years.

§ 113. *Counterfeiting Tools*.—Every person who shall make, mend, or knowingly have in his possession, any die or dies, plate or plates, or any apparatus, paper, metal, machine or other thing whatever, made use of in counterfeiting the coin current by law or usage in this state, or in counterfeiting public securities, bank notes or bills, whether such bank be situate in this state, or not, shall be imprisoned in the penitentiary not less than one year, nor more than fourteen years; and all such dies, plates, apparatus, paper, metal or machine intended for the purposes aforesaid shall be destroyed or sold, if in the opinion of the court the same may properly be sold, and the proceeds, after payment of costs, shall be paid into the county treasury for the use of the county.

§ 114. *Counterfeiting Seal*.—Every person who shall fraudulently forge, deface, corrupt or counterfeit the seal of this state, or the seal of any court or public officer by law entitled to have and use a seal, or the seal of any public, municipal or private corporation, or shall make use of the same, or shall forge or counterfeit the signature of any public officer, or shall unlawfully and corruptly, or with evil intent, affix any of the said true seals to any commission, deed, warrant, pardon, certificate or other writing, or who shall have in his possession or custody any such counterfeit seal, and shall willfully conceal the same, knowing it to be falsely made and counterfeited, shall be imprisoned in the penitentiary not less than one nor more than twenty years.

§ 115. *Counterfeiting Trade Marks*.—Whoever knowingly and willfully counterfeits or causes to be counterfeited any private stamp, label or trade mark, used by a merchant or manufacturer about the sale of his goods, with intent to defraud the purchaser or manufacturer, or sells such goods with such counterfeit stamps, labels or trade marks thereon, knowing them to be counterfeit, shall for each offense be fined not exceeding two hundred dollars.

§ 116. *Simulating Trade Marks*.—When a person uses any peculiar

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name, letters, mark, device or figures, cut, stamped, cast or engraved upon, or in any way attached to or connected with any article manufactured or sold by him, to designate it as an article of peculiar kind, character or quality, or as manufactured by him; whoever shall, without his consent, use the same or any similar names, letters, marks, devices or figures for the purpose of falsely representing any articles to have been manufactured by him, or to be of the same kind, character or quality as that manufactured or sold by the party rightfully using the same, shall for each offense be fined not exceeding two hundred dollars.

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§ 117. *On Gas Companies.*—Any person who, with intent to injure or defraud any gas company, body corporate or individual, shall injure, alter, obstruct or prevent the action of any metre provided for the purpose of measuring and registering the quantity of gas consumed by or at any burner, orifice or place, or cause or procure any such metre to be injured or altered, or the action thereof to be obstructed or prevented, or who shall make or cause to be made any connection with any gas pipe so as to conduct or supply illuminating or inflammable gas to any burner or orifice, from which such gas may be consumed, without passing through or being registered by a metre, shall be punished by imprisonment not exceeding three months, or by fine not exceeding two hundred and fifty dollars, or both.

§ 118. *On Life and Accident Insurance Companies.*—If any person shall obtain or cause to be obtained, or attempt to obtain from any life or accident insurance company, any sum of money on any policy of life or accident insurance issued by any company doing business in this state, by falsely or fraudulently representing the person insured as dead, or shall cause any person to be insured under an assumed name, and shall falsely represent the fictitious person so insured as dead, and shall thereby obtain, cause to be obtained, or attempt to obtain from such company the amount of such insurance, or shall falsely obtain, cause to be obtained, or attempt to obtain from such life or accident insurance company any sum of money upon any life or accident policy of such company by means of false and fraudulent written representations or affidavits, falsely representing that the person whose life was insured was dead, or that the person insured against accident was injured, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, if the sum so obtained, attempted or caused to be obtained shall be equal to or exceed the sum of twenty-five dollars, shall be imprisoned in the penitentiary not exceeding five years; and if the sum so obtained, attempted or caused to be obtained, shall be less than twenty-five dollars, shall be fined not more than one hundred dollars, or be confined in the county jail not exceeding six months, or both, at the discretion of the court.

FRAUDULENT STOCK.

§ 119. *Issuing.*— Every president, cashier, treasurer, secretary or other officer, and every agent, attorney, servant or employee of any bank, railroad, manufacturing or other corporation, and every other person who shall knowingly and designedly, and with intent to defraud any person, bank, railroad, manufacturing or other corporation, issue, sell, transfer, assign or pledge, or cause or procure to be issued, sold, transferred, assigned or pledged, any false, fraudulent or simulated certificate or other evidence of ownership of any share or shares of the capital stock of any bank, railroad, manufacturing or other corporation, shall be punished by fine not exceeding two thousand dollars, and by imprisonment in the penitentiary not more than ten years, as the jury shall determine.

§ 120. *Signing with Intent to Issue.*— Every president, cashier, treasurer, secretary or other officer, and every agent of any bank, railroad, manufacturing or other corporation, who shall willfully and designedly sign, with intent to issue, sell, pledge, or cause to be issued, sold or pledged, any false, fraudulent or simulated certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such corporation, or any instrument purporting to be a certificate or other evidence of such ownership or transfer, the signing, issuing, selling or pledging of which by such president, cashier, treasurer or other officer or agent, shall not be authorized by the charter and by-laws of such corporation, or by some amendment thereof, shall be punished by fine not exceeding two thousand dollars, and by imprisonment in the penitentiary not more than ten years, as the jury shall determine.

FRAUDULENT SALE.

§ 121. *Of Lands.*— Any person, after once selling, bartering or disposing of any tract or tracts of land, town lot or lots, or executing any bond or agreement for the sale of any lands, or town lot or lots, who shall again knowingly and fraudulently sell, barter or dispose of the same tract or tracts of land, or town lot or lots, or any parts thereof, or shall knowingly and fraudulently execute any bond or agreement to sell or barter, or dispose of the same land, or lot or lots, or any part thereof, to any other person for a valuable consideration, shall be imprisoned in the penitentiary not less than one year nor more than ten years.

FRAUDULENT CONVEYANCE.

§ 122. *Of Real or Personal Property.*— Every person who shall be a party to any fraudulent conveyance of any lands, tenements or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance had, made or

Fraudulent Acknowledgments. - - - Fraudulent Receipts.

contrived, with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or who, being a party as aforesaid, at any time shall wittingly and willingly put in use, avow, maintain, justify or defend the same or any of them as true, and done, had or made in good faith, or upon good consideration, or shall sell, alien or assign any of the lands, tenements, hereditaments, goods, chattels or other things before mentioned, to him conveyed as aforesaid, or any part thereof, shall be fined not exceeding one thousand dollars.

FRAUDULENT ACKNOWLEDGMENT.

§ 123. *Punishment.*—If any officer authorized to take the proof and acknowledgment of any conveyance of real or personal property, or other instrument, willfully certifies that such conveyance or other instrument was duly proven or acknowledged by any party thereto, when no such acknowledgment or proof was made, or was not made at the time it was certified to have been made, with intent to injure or defraud, or to enable any other person to injure or defraud, he shall be imprisoned in the penitentiary not less than one nor more than five years, or confined in the county jail not exceeding one year, and fined not exceeding one thousand dollars.

FRAUDULENT RECEIPTS.

§ 124. *Issuing by Warehousemen and Others.*—Whoever fraudulently makes or utters any receipt, or other written evidence of the delivery or deposit of any grain, flour, pork, wool, salt, or other goods, wares or merchandise, upon any wharf or place of storage, or in any warehouse, mill, store or other building, when the quantity specified therein has not in fact been delivered or deposited as stated in such receipt or other evidence of the delivery or deposit thereof, and is not, at the time of issuing the same, still in store, and the property of the person to whom or to whose agent the receipt is issued, or for the whole or any part of which any other receipt is outstanding, or uncanceled, shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 125. *Removal of Warehouse Goods.*—Whoever, having given any such receipt or written evidence of deposit or storage as is specified in the preceding section, or being in the possession or control of such property, shall sell, encumber, ship, transfer, or in any manner remove from the place of storage, or allow the same to be done, any such grain, flour, pork, wool, salt, or other goods, wares and merchandise, without the written consent of the holder of such receipt or other evidence of deposit or storage, except in cases of necessity for the purpose of saving such property from loss or damage by fire, flood or other accident, shall be imprisoned in the penitentiary not less than one nor more than ten years.

GAMBLING, AND GAMBLING CONTRACTS.

§ 126. *Gaming*.—Whoever shall play for money, or other valuable thing, at any game with cards, dice, checks, or at billiards, or with any other article, instrument, or thing whatsoever, which may be used for the purpose of playing or betting upon, or winning or losing money, or any other thing or article of value, or shall bet on any game others may be playing, shall be fined not exceeding one hundred dollars and not less than ten dollars.

§ 127. *Gaming House*.—Whoever keeps a common gaming house, or in any building, booth, yard, garden, boat or float, by him or his agent used and occupied, procures or permits any persons to frequent, or to come together to play for money or other valuable thing, at any game, or keeps or suffers to be kept any tables or other apparatus, for the purpose of playing at any game or sport, for money, or any other valuable thing, or knowingly rent any such place for such purposes, shall, upon conviction, for the first offense be fined not less than one hundred dollars, and for the second offense be fined not less than five hundred dollars, and be confined in the county jail not less than six months, and for the third offense shall be fined not less than five hundred dollars, and be imprisoned in the penitentiary not less than two years nor more than five years.

§ 128. *Gaming in Tavern*.—Every tavern-keeper, common victualler or other person, keeping or suffering to be kept, in any place occupied by him, any implements such as are used in gaming, in order that the same may, for hire, gain or reward, be used for the purpose of amusement, who suffers any implement of that kind to be used upon any part of his premises for the purpose of gaming for money or other property, or who suffers any person to play at an unlawful game or sport therein, shall, for the first offense, be fined one hundred dollars, and for the second offense be fined not less than five hundred dollars, and be confined in the county jail not less than six months, and for the third offense shall be fined not less than five hundred dollars, and be imprisoned in the penitentiary not less than two nor more than five years, and in either case he shall forfeit his license, and shall not again be licensed as a tavern-keeper for one year from his conviction.

§ 129. *Decoys*.—If anyone shall, through invitation or device, prevail on any person to visit any room, building, booth, yard, garden, boat or float kept for the purpose of gambling, or prostitution or fornication, he shall, on conviction thereof, for the first offense be fined not less than ten nor more than one hundred dollars, and for the second offense he may be fined not less than one hundred nor more than three hundred dollars, or may be confined in the county jail not exceeding six months, or both, in the discretion of the court.

§ 130. *Gambling in Grain, etc.*—Whoever contracts to have or give to himself or another the option to sell or buy, at a future time any grain, or other commodity, stock of any railroad or other company, or gold, or fore-

stalls the market by spreading false rumors to influence the price of commodities therein, or corners the market, or attempts to do so in relation to any of such commodities, shall be fined not less than ten dollars nor more than one thousand dollars, or confined in the county jail not exceeding one year, or both; and all contracts made in violation of this section shall be considered gambling contracts, and shall be void.

§ 131. *Gaming Contracts.*—All promises, notes, bills, bonds, covenants, contracts, agreements, judgments, mortgages, or other securities or conveyances, made, given, granted, drawn or entered into, or executed by any person whatsoever, where the whole, or any part of the consideration thereof, shall be for any money, property, or other valuable thing, won by any gaming, or playing at cards, dice, or any other game or games, or by betting on the side or hands of any person gaming, or by wager or bet upon any race, fight, pastime, sport, lot, chance, casualty, election or unknown or contingent event whatever, or for the reimbursing or paying any money or property knowingly lent or advanced at the time and place of such play or bet, to any person or persons so gaming or betting, or that shall during such play or betting, so play or bet, shall be void and of no effect.

§ 132. *Losses by Gaming.*—Any person who shall, at any time or sitting, by playing at cards, dice or any other game or games, or by betting on the sides or hands of such as do game, or by any wager or bet upon any race, fight, pastime, sport, lot, chance, casualty, election or unknown or contingent event whatever, lose to any person, so playing or betting, any sum of money, or other valuable thing amounting in the whole to the sum of ten dollars, and shall pay or deliver the same or any part thereof, the person so losing and paying or delivering the same, shall be at liberty to sue for and recover the money, goods or other valuable thing so lost and paid or delivered, or any part thereof, or the full value of the same, by action of debt, replevin, assumpsit or trover, or proceeding in chancery, from the winner thereof, with costs, in any court of competent jurisdiction; in any such action at law it shall be sufficient for the plaintiff to declare generally, as in actions of debt or assumpsit, for money had and received by the defendant to the plaintiff's use; or as in actions of replevin or trover upon a supposed finding, and the detaining or converting the property of the plaintiff to the use of the defendant, whereby an action hath accrued to the plaintiff according to the form of this act, without setting forth the special matter. In case the person who shall lose such money or other thing as aforesaid, shall not, within six months, really and *bona fide*, and without covin or collusion, sue, and with effect prosecute, for such money or other thing, by him lost and paid or delivered as aforesaid, it shall be lawful for any person to sue for and recover treble the value of the money, goods, chattels and other things, with costs of suit, by special action of the case against such winner aforesaid; one-half to use of the county, and the other to the person suing.

§ 133. *Premises Liable for Losses.*—If any person shall rent or lease to

another any building or premises to be used or occupied in whole or in part as a common gaming house, or place for persons to come together to play for money or other valuable thing, or bet upon any game or chance, or shall knowingly permit the same to be so used or occupied, such building or premises so used or occupied, shall be held liable for and may be sold to pay any judgment that may be recovered under the preceding section. Proceedings may be had to subject the same to the payment of any such judgment recovered which remain unpaid, or any part thereof, either before or after execution shall issue against the property of the person against whom such judgment shall have been recovered; and when execution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid: *Provided*, that if such building or premises belong to a minor, or other person under guardianship, the guardian or conservator of such person, and his real and personal property, shall be held liable instead of such ward, and his property shall be subject to all the provisions of this section relating to the collection of said judgment.

§ 134. *Insurance Contracts excepted.*—Nothing contained in sections one hundred and thirty-one and one hundred and thirty-two above shall be construed as to prohibit or in any way to affect any insurance made in good faith, for the security or indemnity of the party insured, and which is not otherwise prohibited by law, nor to any contract on bottomry or *respondentia*.

§ 135. *Proceedings to Vacate Gaming Contracts.*—All judgments, mortgages, assurances, bonds, notes, bills, specialties, promises, covenants, agreements, and other acts, deeds, securities, or conveyances, given, granted, drawn or executed, contrary to the provisions of this act, may be set aside and vacated by any court of equity, upon bill filed for that purpose, by the person so granting, giving, entering into, or executing the same, or by his executors or administrators; or by any creditors, heir, devisee, purchaser or other person interested therein; or if a judgment, the same may be set aside on motion of any person aforesaid, on due notice thereof given.

§ 136. *Proceedings not Affected by Assignment of Contract.*—No assignment of any bill, note, bond, covenant, agreement, judgment, mortgage, or other security or conveyance as aforesaid, shall, in any manner, affect the defense of the person giving, granting, drawing, entering into or executing the same, or the remedies of any person interested therein.

§ 137. *Discovery.*—In all actions or other proceedings commenced or prosecuted under the provisions of sections one hundred and twenty-six to one hundred and thirty-five inclusive of this division, the party shall be entitled to discovery as in other actions, and all persons shall be obliged and compelled to answer, upon oath, such bills as shall be preferred against them for discovering the sum of money, or other thing so won as aforesaid. Upon the discovery and repayment of the money or other thing, so to be discovered and repaid, the person who shall discover and repay the same, as aforesaid,

Grares, Graveyards, and Cemeteries. - - - Homicide. - - - Murder.

shall be acquitted, indemnified and discharged from any other or further punishment, forfeiture or penalty, which he might have incurred, by the playing for, or winning such money, or other thing, so discovered or repaid as aforesaid.

GRAVES, GRAVEYARDS AND CEMETERIES.

§ 138. *Robbing Graves.*—Whoever wilfully, and without authority, digs up, disinters, removes or conveys away from the place of sepulture or interment thereof any human body or the remains thereof, or knowingly aids in such disinterment, removal or conveying away, and whoever is accessory thereto, either before or after the fact, shall be fined not less than one hundred nor more than one thousand dollars, or be confined in the county jail not exceeding one year, or both.

§ 139. *Injuring Monuments.*—Whoever wilfully and maliciously injures, defaces, removes or destroys, any vault, tomb, monument, gravestone or other memorial of the dead, or any fence or inclosure about the same, or about any cemetery or place of burial of the dead, or wilfully cuts, breaks, removes or injures any tree, shrub or plant within any such inclosure, or about or upon any grave or tomb, or wantonly or maliciously disturbs the contents of any vault, tomb or grave, shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding one year, or both.

HOMICIDE.

§ 140. *Murder.*—Murder is the unlawful killing of a human being, in the peace of the people, with malice aforethought, either expressed or implied. The unlawful killing may be perpetrated by poisoning, striking, starving, drowning, stabbing, shooting, or by any other of the various forms or means by which human nature may be overcome, and death thereby occasioned. Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof. Malice shall be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

§ 141. *Petit Treason — Murder.*—The distinction between petit treason and murder is abolished. Any person who might have been indicted for petit treason shall hereafter be indicted for murder, and if convicted be punished accordingly.

§ 142. *Murder — Punishment.*—Whoever is guilty of murder, shall suffer the punishment of death, or imprisonment in the penitentiary for his natural life, or for a term not less than fourteen years. If the accused is found guilty by a jury, they shall fix the punishment by their verdict; upon a plea of guilty, the punishment shall be fixed by the court.

§ 143. *Manslaughter Defined.*—Manslaughter is the unlawful killing of

Manslaughter. - - - Punishment. - - - Justifiable Homicide.

a human being, without malice, express or implied and without any mixture of deliberation whatever. It must be voluntary, upon a sudden heat of passion, caused by a provocation, apparently sufficient to make the passion irresistible, or involuntary in the commission, of an unlawful act, or a lawful act without due caution or circumspection.

§ 144. *Manslaughter Voluntary*.—In cases of voluntary manslaughter there must be a serious and highly provoking injury inflicted upon the person killing, sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing. The killing must be the result of that sudden, violent impulse of passion, supposed to be irresistible; for if there should appear to have been an interval between the assault or provocation given, and the killing, sufficient for the voice of reason and humanity to be heard, the killing shall be attributed to deliberate revenge, and punished as murder.

§ 145. *Manslaughter Involuntary*.—Involuntary manslaughter shall consist in the killing of a human being without any intent to do so, in the commission of an unlawful act, or a lawful act, which probably might produce such a consequence, in an unlawful manner: *Provided, always*, that where such involuntary killing shall happen in the commission of an unlawful act, which in its consequences naturally tends to destroy the life of a human being, or is committed in the prosecution of a felonious intent, the offense shall be deemed and adjudged to be murder.

§ 146. *Manslaughter — Punishment*.—Whoever is guilty of manslaughter shall be imprisoned in the penitentiary for his natural life, or for any number of years. If the accused is found guilty by a jury, they shall fix the punishment by their verdict; upon a plea of guilty, the punishment shall be fixed by the court.

§ 147. *Time of Death*.—In order to make the killing either murder or manslaughter, it is requisite that the party die within a year and a day after the stroke received or the cause of death administered, in the computation of which the whole of the day on which the hurt was done shall be reckoned the first.

§ 148. *Justifiable Homicide*.—Justifiable homicide is the killing of a human being in necessary self-defense, or in the defense of habitation, property or person, against one who manifestly intends or endeavors by violence or surprise to commit a known felony, such as murder, rape, robbery, burglary and the like, upon either person or property, or against any person or persons who manifestly intend and endeavor, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of assaulting or offering personal violence to any person dwelling or being therein. A bare fear of any of these offenses, to prevent which the homicide is alleged to have been committed, shall not be sufficient to justify the killing. It must appear that the circumstances were sufficient to excite the fears of a

Self-Defense. - - - Officer Resisted. - - - Burden of Proof.

reasonable person, and that the party killing really acted under the influence of those fears, and not in a spirit of revenge.

§ 149. *Self-defense.*—If a person kill another in self-defense, it must appear that the danger was so urgent and pressing that in order to save his own life, or to prevent his receiving great bodily harm, the killing of the other was absolutely necessary; and it must appear also that the person killed was the assailant, or that the slayer had really, and in good faith, endeavored to decline any further struggle before the mortal blow was given.

§ 150. *By an Officer Resisted.*—If any officer, in the execution of his office, in a criminal case, having legal process, be resisted and assaulted, he shall be justified if he kill the assailant. If an officer or private person attempt to take a person charged with treason, murder, rape, burglary, robbery, arson, perjury, forgery, counterfeiting or other felony, and he be resisted in the endeavor to take the person accused, and to prevent the escape of the accused by reason of such resistance, he be killed, the officer or private person so killing shall be justified: *Provided*, that such officer or private person, previous to such killing, shall have used all reasonable efforts to take the accused without success, and that from all probability there was no prospect of being able to prevent injury from such resistance, and the consequent escape of such accused person.

§ 151. *According to Lawful Sentence.*—Justifiable homicide may also consist in unavoidable necessity, without any will or desire, and without any inadvertence or negligence in the party killing. An officer who, in the execution of public justice, puts a person to death, in virtue of a judgment of a competent court of justice, shall be justified. The officer must, however, in the performance of his duty, proceed according to the sentence and the law of the land.

§ 152. *By Misadventure.*—Excusable homicide, by misadventure, is when a person in doing a lawful act, without any intention of killing, yet unfortunately kills another; as where a man is at work with an ax, and the head flies off and kills a bystander, or where a parent is moderately correcting his child, or master his servant or scholar, or an officer punishing a criminal, and happens to occasion death, it is only a misadventure, for the act of correction was lawful; but if a parent or master exceed the bounds of moderation, or the officer the sentence under which he acts, either in the manner, the instrument, or quantity of punishment, and death ensue, it will be manslaughter or murder, according to the circumstances of the case.

§ 153. *Other Instances.*—All other instances which stand upon the same footing of reason and justice as those enumerated shall be considered justifiable or excusable homicide.

§ 154. *Justifiable or Excusable—Defendant Discharged.*—The homicide appearing to be justifiable or excusable, the person indicted shall, upon his trial, be fully acquitted and discharged.

§ 155. *Burden of Proof.*—The killing being proved, the burden of

Incest. - - - Intimidation.

proving circumstances of mitigation, or that justify or excuse the homicide, will devolve on the accused, unless the proof on the part of the prosecution sufficiently manifests that the crime committed only amounts to manslaughter, or that the accused was justified or excused in committing the homicide.

INCEST.

§ 156. *Father with Daughter.*—If a father shall rudely and licentiously cohabit with his own daughter, the father shall be imprisoned in the penitentiary for a term not exceeding twenty years.

§ 157. *Of Relatives.*—Persons within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who shall intermarry with each other, or who shall commit adultery or fornication with each other, or who shall lewdly and lasciviously cohabit with each other, shall be imprisoned in the penitentiary not exceeding ten years.

INTIMIDATION.

§ 158. *By Combinations, etc.*—If any two or more persons shall combine for the purpose of depriving the owner or possessor of property of its lawful use and management, or of preventing, by threats, suggestions of danger or any unlawful means, any person from being employed by or obtaining employment from any such owner or possessor of property, on such terms as the parties concerned may agree upon, such person so offending shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding six months.

§ 159. *Of Workmen, etc.*—If any person shall, by threat, intimidation or unlawful interference seek to prevent any other person from working or from obtaining work at any lawful business, on any terms that he may see fit, such person so offending shall be fined not exceeding two hundred dollars.

§ 160. *Entering Premises to Intimidate.*—Whoever enters a coal bank, mine, shaft, manufactory, building or premises of another, with intent to commit any injury thereto, or by means of threats, intimidation, or riotous or other unlawful doings, to cause any person employed therein to leave his employment, shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding six months, or both.

§ 161. *Compelling Confession.*—If two or more persons shall commit an assault and battery on, or shall imprison another within this state, for the purpose of obtaining a confession or revelation tending to criminate the person assaulted, or any other person, or shall assault and batter or imprison another on account of a refusal of such person to make such confession or revelation; the person so offending shall be imprisoned in the penitentiary not less than one year nor more than three years.

Kidnapping. - - - Larceny.

§ 162. *Compelling to Leave.*—If two or more persons shall actually do an unlawful act, with force or violence, against the person or property of another, with an intent thereby to cause such person to leave the state or county against his will, the persons so offending shall be imprisoned in the penitentiary not less than one year nor more than three years.

§ 163. *Mock Trial.*—If two or more persons shall, without authority of law, assemble and try another for any real or pretended offense, or for being a person of bad repute, with intent to intimidate or inflict any injury or punishment upon the person so tried, the persons so offending shall be imprisoned in the penitentiary not less than one nor more than three years.

§ 164. *Of Jurors and Others.*—If two or more persons shall actually do an unlawful act, with force or violence, against the person or property of any grand or petit juror, witness, or member of a *posse comitatus*, on account of any act done by him, in obedience to a duty required of him by law, or to prevent the performance of any such act, the persons so offending shall be imprisoned in the penitentiary not less than one year nor more than three years.

§ 165. *By Threats.*—If one or more persons shall threaten violence to the person or property of another, for the purpose of obtaining a confession of crime, or for the purpose of causing such person to leave the state; or shall threaten violence to the person or property of any grand or petit juror, witness, or a member of a *posse comitatus*, on account of any act done by him in obedience to a duty required of him by law, or to prevent the performance of any such act, the person or persons so offending shall be severally fined not exceeding one hundred dollars, or confined in the county jail not more than three months.

KIDNAPPING.

§ 166. *Punishment.*—Whoever willfully and without lawful authority, forcibly or secretly confines or imprisons any other person within this state against his will; or forcibly carries or sends such person out of the state; or forcibly seizes, or confines, or inveigles, or kidnaps any other person, with the intent to cause such person to be secretly confined or imprisoned in this state against his will, or to cause such person to be sent out of the state against his will, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding one thousand dollars, or both. This section shall not extend to a parent taking his or her minor child, unless such parent is deprived of the right to have the custody of such child by the order of a court of competent jurisdiction.

LARCENY.

§ 167. *Defined.*—Larceny is the felonious stealing, taking and carrying, leading, riding, or driving away the personal goods of another. Larceny

Larceny. - - - Punishment.

shall embrace every theft which deprives another of his money or other personal property, or those means or muniments by which the right and title to property, real or personal, may be ascertained. Private stealing from the person of another, and from a house in the daytime, shall be deemed larceny. Larceny may also be committed by feloniously taking and carrying away any bond, bill, note, receipt or any instrument of writing of value to the owner.

§ 168. *Punishment.*—Every person convicted of larceny, if the property stolen exceeds the value of fifteen dollars, shall be imprisoned in the penitentiary not less than one nor more than ten years; if the value of the property stolen is less than fifteen dollars, he shall be confined in the county jail not exceeding one year, and fined not exceeding one hundred dollars.

§ 169. *Second Offense.*—In case of a second conviction of the offense of petty larceny by any person over the age of eighteen years, the punishment shall be by imprisonment in the penitentiary, for a term not exceeding three years; and on the trial under an indictment for petty larceny, a duly certified copy of the record of a former conviction and judgment of any court of record in this state, for a like offense against the party indicted, shall be *prima facie* evidence of such former conviction, and may be used in evidence against such party: *Provided*, that such former conviction and judgment shall be set forth in apt words in the indictment.

§ 170. *By Bailee.*—If any bailee of any bank bill, note, money or other property, shall convert the same to his own use, with intent to steal the same, or secretes the same with intent so to do, he shall be deemed guilty of larceny.

§ 171. *Of Beasts and Birds "feræ naturæ."*—Whoever, without the consent of the owner, and with a felonious intent, takes any beast or bird ordinarily kept in a state of confinement, and not the subject of larceny at common law, shall be deemed guilty of larceny.

§ 172. *Horse Stealing.*—Whoever feloniously takes or steals any horse, mule or ass, shall be imprisoned in the penitentiary not less than three nor more than twenty years. The words "horse," "mule," "ass," shall include animals of both sexes and all ages.

§ 173. *Of Lead Pipe, etc.*—Every person who shall feloniously steal, take and carry away any lead pipe, faucet, or faucet and stop-cock, from any dwelling house or other building, whether the same be attached to such house or building or not, or whether the same be laid in the ground separate from such house or building, shall be deemed guilty of larceny, and punished accordingly.

§ 174. *Of Newspapers, etc.*—Whoever shall unlawfully and feloniously steal, take and carry away any newspaper or periodical from the place where the same may be left for any other person, shall be deemed guilty of larceny, and punished accordingly. It shall be sufficient to allege, in the indictment

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under this section, property to be in the publisher, or in the person for whom the newspaper or periodical was left.

§ 175. *Of Things Attached to the Realty.*—Whoever by a trespass, with intent to steal, takes and carries away anything which is parcel of the realty, or annexed thereto, the property of another of some value, against his will, shall be guilty of such larceny as he would be guilty of if such property were personal property.

§ 176. *Larceny and Falsifying Public Records.*—If any judge, justice of the peace, sheriff, coroner, clerk, recorder, or other public officer, or any person whatsoever, shall steal, embezzle, alter, corrupt, withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, bond, or contract, or shall knowingly and willfully take off, discharge or conceal any issue, forfeited recognizance, or other forfeiture, or shall forge, deface or falsify any document or instrument recorded, or any registry, acknowledgment or certificate, or shall alter, deface or falsify any minute, document, book or any proceeding whatever, of, or belonging to any public office within this state, the person so offending shall be imprisoned in the penitentiary not less than one nor more than seven years.

LIBEL.

§ 177. *Defined.*—A libel is a malicious defamation, expressed either by printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him to public hatred, contempt, ridicule or financial injury.

§ 178. *Punishment.*—Every person, whether writer or publisher, convicted of libel, shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding one year.

§ 179. *Justification.*—In all prosecutions for libel, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

LOTTERIES.

§ 180. *Setting Up Of.*—Whoever sets up or promotes any lottery for money, or by way of lottery disposes of any property of value, real or personal, or under pretense of a sale, gift or delivery of any other property, or any right, privilege or thing whatever, disposes of, or offers or attempts to dispose of any real or personal property, with intent to make the disposal of such real or personal property dependent upon or connected with any chance by dice, lot, numbers, game, hazard or other gambling device, whereby such chance or device is made an additional inducement to the disposal or sale of said property; and whoever aids, either by printing or writing, or is in any way concerned in the setting up, managing or drawing of any such lottery, or in such disposal, or offer or attempt to dispose of property by any

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such chance or device, shall for each offense be fined not exceeding two thousand dollars.

§ 181. *Permitting.*—Whoever, in a house, shop or building, owned or occupied by him, or under his control, knowingly permits the setting up, managing or drawing of such lottery, or such disposal or attempt to dispose of property, or the sale of a lottery ticket, or share of a ticket, or any other writing, certificate, bill, token or other device, purporting or intended to entitle the holder, bearer or any other person to a prize, or to a share of or interest in a prize to be drawn in a lottery, or in such disposal of property; and whoever knowingly suffers money or other property to be raffled for in such house, shop or building, or to be won there by throwing or using dice, or by any other game of chance, shall, for each offense, be fined not exceeding two thousand dollars.

§ 182. *Selling Tickets, etc.*—Whoever sells, either for himself or for another person, or offers for sale, or has in his possession, with intent to sell or offer for sale, or to exchange or negotiate, or in anywise aids or assists in the selling, negotiating or disposing of any ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token or other device, or any share or right in such disposal or offer as is mentioned in this act, whether such lottery or the drawing thereof is in this state or elsewhere, shall, for each offense, be fined not exceeding two thousand dollars.

§ 183. *Advertising.*—Whoever knowingly prints, publishes, distributes or circulates, or knowingly causes to be printed, published, distributed or circulated any advertisement of any lottery ticket or scheme, or any share in such ticket or scheme, for sale, either himself, or by another person, or sets up, or exhibits, or devises, or makes, for the purpose of being set up and exhibited, any sign, symbol, or emblematic or other representation of a lottery, or the drawing thereof, in any way indicating where a lottery ticket, or any share thereof, or any such writing, certificate, bill, token or other device before mentioned may be purchased or obtained, or in any way invites or entices, or attempts to invite or entice any other person to purchase or receive the same, shall, for each offense, be fined not exceeding one hundred dollars.

§ 184. *Second Conviction.*—Whoever, after being convicted of any offense mentioned in either of the four preceding sections, commits the like offense or any other of the offenses therein mentioned, shall, in addition to the fine before provided, be confined in the county jail not exceeding one year.

§ 185. *Prizes, etc., Forfeited.*—All sums of money and every other valuable thing drawn as a prize, or as a share of a prize, in any lottery, and all property disposed of, or offered to be disposed of, by any chance or device, under the pretext mentioned in section one hundred and eighty hereof, by any person being an inhabitant or resident within this state, and all sums of money or other things of value received by any such person, by reason of

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his being the owner or holder of any ticket or share of a ticket in a lottery or pretended lottery, or of any share or right in any such scheme of chance, or such device, contrary to the provisions of this act, shall be forfeited, and may be recovered by an information filed, or by an action for money had and received, brought by the attorney general, or the state's attorney in the proper county, in the name and on behalf of the People of the State of Illinois.

MALICIOUS MISCHIEF.

§ 186. *To Railroads.*—Whoever willfully and maliciously displaces or removes any switch, signal or rail of any railroad, or breaks down, rips up, injures or destroys any track, bridge or other portion of any railroad, or places any obstructions thereon, or places any false signal upon or along the line of any railroad track, or does any act to any engine, machine or car of such railroad, with intent that any person or property being or passing on or over such railroad should be injured thereby, shall be imprisoned in the penitentiary not less than one nor more than five years. Or if, in consequence of any such act, done with such intent, any person being or passing on or over such railroad, suffers any bodily harm, or any property is injured, the person so offending shall be imprisoned in the penitentiary not less than three nor more than ten years. And if, in consequence of any such act, done with such intent, any person is killed, the person so offending shall be deemed guilty of murder and punished accordingly.

§ 187. *Combining to Injure Railroads.*—If any two or more persons shall conspire or combine to break down, take up, injure or destroy any railroad track, or railroad bridge, or to burn or destroy any engine, engine house, car house, machine shop, or any other building or machinery necessary to the free use of any railroad, every such person shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

§ 188. *Obstructing Train Laden with Munitions of War, Troops, etc.*—If any two or more persons shall attempt to prevent the passage of any railroad train, carrying any provisions, troops or munitions of war, for the use or in the employment of this state or of the United States, by any violence or offer of violence, or shall assemble themselves together for that purpose, or if any person shall induce, entice or persuade, or attempt to induce, entice or persuade any other person to do so, such persons, and each of them, shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 189. *Attempting Injury to Railroads.*—Whoever shall maliciously make any attempt, although the same may not succeed, to place obstructions on any railroad track, to burn, blow up or destroy any railroad bridge, or in any other way prevent the free and safe passage of trains on any railroad, shall be imprisoned in the penitentiary not less than one nor more than ten years.

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§ 190. *Influencing Others to Injure Railroads.*—Whoever shall maliciously hire, persuade or induce, attempt to hire, induce or persuade any person to burn, or in any way injure or destroy any railroad bridge, to take up, injure or destroy any railroad track, or any machine shop, engine house, car house, engine or car, or other machinery or property necessary for the operation of any railroad, shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 191. *Railroad Engineers, etc.*—Any engineer, or person having charge of and running any railroad engine or locomotive, who shall willfully or unnecessarily kill, wound, or disfigure any horse, cow, mule, hog, or other useful animal, shall, upon conviction, be fined ~~in~~ a sum not less than the value of the property so killed, wounded or disfigured, and confined in the county jail for a period of not less than ten days; and any such engineer who shall wantonly or unnecessarily blow the engine whistle so as to frighten any team shall be liable to a fine of not less than ten dollars nor more than fifty dollars.

§ 192. *To Houses, etc.*—Whoever willfully and maliciously destroys, injures or defaces any building or fixture attached thereto, without consent of the owner, or destroys, injures or secretes any goods or chattels of another, shall be imprisoned in the penitentiary not less than one nor more than ten years: *Provided*, that where the damage done in such case does not exceed fifteen dollars, the punishment shall be by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year, or both, in the discretion of the court.

§ 193. *Injuring or Destroying Baggage.*—If any baggage-master, express agent, stage driver, hackman or any other person, whose duty it is to handle, remove or take care of trunks, valises, boxes, packages or parcels, while loading, transporting, unloading, delivering or storing the same, whether or not in the employ of a railroad, steamboat, or stage company, shall wantonly or recklessly injure or destroy the same, he shall be fined not exceeding two hundred dollars.

§ 194. *To papers, etc.*—Every person who shall fraudulently or maliciously tear, burn, efface cut, or in any other way destroy or secrete any deed, lease, bond, will, or any other writing sealed, or any bank bill or note, check, warrant for the payment of money or other thing, or other security for the payment of money or delivery of goods, or any certificate or other public security of this state, or of the United States, or any of them, for the payment of money, or any receipt, acquittance, release, defeasance, discharge of any debt, suit, or other demand, or any transfer or assurance of money, stock, goods, chattels, or other property, or any letter of attorney or other power, or any day-book or other book of account, or any agreement or contract whatsoever, with intent to defraud, prejudice or injure any person or body corporate, shall be imprisoned in the penitentiary not less than one year nor more than five years.

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§ 195. *To Jails, etc.*—Whoever willfully and maliciously breaks down, destroys or otherwise injures any public jail, or other place for the confinement of offenders, shall be confined in the county jail not exceeding one year, or fined not exceeding five thousand dollars, nor less than the value of the property destroyed, or both.

§ 196. *To Public Buildings, etc.*—Whoever willfully and maliciously or wantonly, and without cause, destroys, defaces, mars or injures any school-house, church or other building erected or used for the purposes of education, or religious instruction, or for the general diffusion of knowledge; or any of the out-buildings, fences, wells or appurtenances of such school-house, church or other building, or any furniture, apparatus or other property belonging to or connected with such school-house, church or other building, shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding one year.

§ 197. *To Canals, etc.*—Whoever willfully and maliciously injures, removes or destroys any canal, levee, dam, reservoir, trench or their appurtenances, or the gear or machinery of any mill or manufactory; draws off the water from any mill-pond, reservoir, canal or trench; destroys or injures any engine or its apparatus for the extinguishment of fires, or any posts, glass caps, wires or other materials used in the construction or operation of any telegraph; removes, injures or destroys any public or toll bridge, or places any obstruction on such bridge, or on any public road, with intent to injure any persons or property passing thereon, shall be fined not exceeding three hundred dollars, or confined in the county jail not exceeding one year, or both. This section, so far as it relates to roads and bridges, is cumulative to other remedies provided by law.

§ 198. *To Rafts, Vessels, etc.*—Whoever willfully and maliciously, without the consent of the owner, cuts away, lets loose, injures or destroys any boom, raft of logs, or other lumber, vessel, scow or boat of any kind, fastened to any place, of which he is not the owner or legal possessor, shall be fined not exceeding one thousand dollars, or confined in the county jail not exceeding one year, or both; and shall also be liable to the person injured, in action of trespass, in double the damages sustained.

§ 199. *Obstruction of Stream or Water Course.*—Whoever willfully and wantonly obstructs the passage of any stream or water course used for the purpose of rafting or floating mill logs or lumber, by casting, felling or depositing any tree, timber or other thing across or into any such stream or water course, whereby the rafting or floating of mill logs or lumber is prevented, hindered, or impeded, shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding six months, or both. But nothing herein contained shall prevent the maintaining or constructing of dams for manufacturing or other lawful purposes.

§ 200. *To Monuments, etc.*—Whoever willfully and maliciously injures or removes any monument erected, or tree marked as a boundary of any

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land, or as a state, county, city, town or village boundary; destroys, defaces or alters the marks thereon made for the purpose of designating such boundary; injures or defaces any mile stone or guide board, erected on any public way or railroad; removes, defaces or injures any sign board, lamp or lamp posts, or extinguishes any lamp on any bridge, street-way or passage, shall be confined in the county jail not exceeding one year, and fined not exceeding one hundred dollars.

§ 201. *To Shrubs, Fences, etc.*—Whoever willfully and maliciously cuts down, destroys or otherwise injures any shrub, vine or tree, for ornament or use, whether standing or growing upon the lands of another, or upon any street, road or public ground adjoining such land; breaks or defaces any fence, hedge, or ditch used as a fence; throws down or opens any gate or bars; injures, destroys or severs from the land of another any product thereof, or thing attached thereto, such articles not being his own, shall be confined in the county jail not exceeding one year, or fined not exceeding two hundred dollars, or both; and shall be liable to the person injured in double the amount of the damages done.

§ 202. *To Water, etc.*—Whoever willfully and maliciously defiles, corrupts or makes impure any spring or other source of water, or reservoir, or destroys or injures any pipe, conductor of water, or other property pertaining to an aqueduct, or aids and abets in any such trespass, shall be fined not exceeding one thousand dollars, or confined in the county jail not exceeding one year.

§ 203. *To Domestic Animals.*—Whoever willfully and maliciously kills, wounds, maims, disfigures or poisons any domestic animal, or exposes any poisonous substance, with intent that the life of any such animal should be destroyed thereby, such animal being the property of another, shall be imprisoned in the penitentiary not less than one, nor more than three years, or fined not exceeding one thousand dollars, or both: *Provided*, that this section shall not be construed to apply to persons owning sheep or other domestic animals, who may, in the exercise of reasonable care and good intentions, put out poison on his own premises where sheep are kept, to kill sheep-killing dogs.

§ 204. *Taking Horses, Vehicles, Boats, etc.*—Whoever willfully and maliciously takes, drives, rides or uses any horse, ox or other draft animal, or takes or uses any vehicle or boat, the property of another, without the consent of the owner or person having the legal custody, care and control of the same, shall be fined not exceeding three hundred dollars, or be confined in the county jail not exceeding one year. But the provisions of this section shall not apply to any case of taking the property of another with intent to steal the same.

§ 205. *To Advertisements, etc.*—Whoever intentionally defaces, obliterates, tears down or destroys, in whole or in part, any copy, transcript or extract of or from any law of the United States, or of this state, or any proclamation,

Marks and Brands. - - - Mayhem. - - - Misconduct of Officers.

advertisement or notification set up at any place by authority of law, or by order of any court, during the time for which the same is to remain set up, shall be fined not exceeding two hundred dollars.

MARKS AND BRANDS.

§ 206. *Altering or Defacing.*—Every person who shall mark or brand, alter or deface the mark or brand of any horse, mare, colt, jack, jennet, mule, or any one or more head of neat cattle or sheep, goat, hog, shoat or pig, the property of another, with intent thereby to steal the same, or to prevent identification thereof by the true owner, if the value thereof is fifteen dollars or more, shall be imprisoned in the penitentiary not less than one nor more than three years; if the value is less than fifteen dollars, he shall be confined in the county jail not exceeding one year, or fined not exceeding one thousand dollars, or both.

MAYHEM.

§ 207. *Punishment.*—Whoever, with malicious intent to maim or disfigure, cuts or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits or mutilates the nose or lip, cuts off or disables a limb or other member of another person, shall be imprisoned in the penitentiary not less than one nor more than twenty years, or fined not exceeding one thousand dollars and confined in the county jail not exceeding one year.

MISCONDUCT OF OFFICERS.

§ 208. *Omission and Malfeasance.*—Every person holding any public office, (whether state, county or municipal,) trust or employment, who shall be guilty of any palpable omission of duty, or who shall be guilty of diverting any public money from the use or purpose for which it may have been appropriated, or set apart by or under authority of law, or who shall be guilty of contracting, directly or indirectly, for the expenditure of a greater sum or amount of money than may have been, at the time of making the contracts, appropriated or set apart by law or authorized by law to be contracted for or expended upon the subject matter of the contracts, or who shall be guilty of willful and corrupt oppression, malfeasance or partiality, where no special provision shall have been made for the punishment thereof, shall be fined not exceeding ten thousand dollars, and may be removed from his office, trust or employment.

§ 209. *Intoxication of Officers, etc.*—That any officer of a town, village, city, county or state, who shall be intoxicated while in discharge of the duties of his office, shall be fined for the first offense the sum of ten dollars, and for the second offense the sum of twenty dollars, and for the third offense shall be guilty of a misdemeanor, and, on conviction of such misdemeanor, shall

Extortion by Officers. - - - Shaving Warrants, etc. - - - Illegal Fees.

forfeit his office, and in such case the vacancy occasioned thereby shall be filled in the same manner as if such officer had filed his resignation in the proper office, and it had been accepted by the proper officer: *Provided*, such acceptance shall have been necessary to make the office vacant. The penalties for the first and second offense given by this section, may be recovered in an action of debt, in the name of the People of the State of Illinois, before any justice of the peace of the proper county, and when collected shall be paid to the county superintendent where such offense shall have been committed, for the use of the school fund.

§ 210. Every person who procures for, furnishes or conveys to any prisoner confined in any jail or city prison, intoxicating or spirituous liquors, shall, upon conviction thereof, for each offense, be fined not exceeding fifty dollars or imprisoned in the county jail not exceeding thirty days, or both, in the discretion of the court, which fine may be recovered in an action of debt, in the name of the People of the State of Illinois, before any justice of the peace of the county where said offense shall have been committed. All fines collected under the provisions of this section shall be paid into the common school fund of the proper county.

§ 211. *Extortion.*—If any judge, justice of the peace, sheriff, coroner, constable, police officer, clerk or other officer, state, county, town or municipal, executive, ministerial or judicial, shall willfully or corruptly receive or take any fee or reward to execute or do his duty as such officer, except such as is or shall be allowed by law, or if any such officer shall willfully or corruptly ask or demand as a condition precedent to the performance of his duty as such officer, any fee or reward, except such as shall be allowed by law, every such officer so offending shall be fined not exceeding two hundred dollars, and may be removed from office.

§ 212. *Shaving Warrants, etc.*—If any collector of taxes, county treasurer, or other person authorized to collect, receive or pay out any of the state, county, city or school revenues, shall directly or indirectly, by himself or his agent, take, buy, shave, discount or receive any auditor's warrant, county order or jury certificate, or city or school order at less than the full sum due thereon, or shall directly or indirectly receive any profit or advantage on account of any other person's buying, shaving or discounting any such warrant, order or jury certificate, such collector, treasurer or other person shall be liable in double the amount made thereby, to be recovered in an action of debt before any court of competent jurisdiction, one-half to the person complaining, and the other half to the school fund of the county where such collector, treasurer, or other person may reside.

§ 213. *Illegal Fees.*—If any officer, authorized by law to charge fees, shall charge, claim, demand, or take any greater fee than such as is by law allowed to him for the service performed, or shall charge, claim, demand or take any fee, or who shall knowingly charge a fee when no fee is allowed him by law, or when the services for which such fee is charged have not been

Misconduct of Officers. - - - Withholding Funds. - - - Records.

performed by him, or by some other person for him, he shall, on the first conviction thereof, be fined not less than twenty-five dollars, nor more than two hundred dollars, and upon a subsequent conviction of any like offense, he shall forfeit his office and be confined in the county jail not less than thirty days nor more than one year.

§ 214. *Illegal Fees—Private Remedy.*—Any officer who violates the provisions of the preceding section shall, in addition to the penalty therein provided, be fined for each item so charged, collected or received, not less than ten dollars, nor more than one hundred dollars, to be sued for and recovered before any justice of the peace of the proper county, in an action of debt, in the name of the People of the State of Illinois, and for the use of the person against whom such fee is charged, or from whom the same is received or collected.

§ 215. *Withholding Funds.*—If any state, county, town, municipal or other officer or person, who now is or hereafter may be authorized by law to collect, receive, safely keep or disburse any money, revenue, bonds, mortgages, coupons, bank bills, notes, warrants or dues, or other funds or securities, belonging to the state, or any county, township, incorporated city, town or village, or any state institution, or any canal, turnpike, railroad, school or college fund, or the fund of any public improvement that now is or may hereafter be authorized by law to be made, or any other fund now in being or that may hereafter be established by law for public purposes, or belonging to any insurance or other company or person, required or authorized by law to be placed in the keeping of any such officer or person, shall fail or refuse to pay or deliver over the same when required by law, or demand is made by his successor in office or trust, or the officer or person to whom the same should be paid or delivered over, or his agent or attorney, authorized in writing, he shall be imprisoned in the penitentiary not less than one nor more than ten years: *Provided*, such demand need not be made, when from the absence or fault of the offender the same cannot conveniently be made: *And Provided*, that no person shall be committed to the penitentiary under this section, unless the money not paid over shall amount to one hundred dollars, or if it appear that such failure or refusal is occasioned by unavoidable loss or accident. Every person convicted under the provisions of this section shall forever thereafter be ineligible and disqualified from holding any office of honor or profit in this state.

§ 216. *Withholding Records, etc., from Successors.*—If any person whose office shall be abolished by law, vacated or determined by removal from office, resignation, death, expiration of the time for which he was elected or appointed, or other cause, or his executors, administrators or other persons, shall willfully and unlawfully withhold or detain from his successor or other person entitled thereto by law, the records, papers, documents or other writings, or other articles of property appertaining or belonging to such office, or mutilate, destroy or take away the same, the person so offending

Misconduct of Officers. - - - Search Warrant for Records.

shall be imprisoned in the penitentiary not less than one year nor more than five years.

§ 217. *Search Warrant may Issue for Records.*—If any person whose office shall be abolished by law, vacated or determined by removal from office, resignation, death, expiration of the time for which he was elected or appointed, or other cause, or his executors, administrators or other persons, neglect or refuse to deliver over any records, papers, documents or other writings, or other articles of property pertaining to such office, when thereto lawfully required by the successor to such office, or other person entitled to the custody thereof, the judge of any court of record in the proper county, may, upon the affidavit of any competent person setting forth proper facts, issue his warrant, directed to the sheriff or coroner of the proper county, commanding him to seize all the records, books, papers, documents and other public property belonging or appertaining to the said office, and deliver the same to the person entitled to the custody thereof, to be named in such warrant.

§ 218. *Execution of the Process.*—The officer executing any warrant issued as aforesaid may break open any doors, trunks, or places in which any of the records, books, papers, documents or other public property, in such warrant commanded to be seized and secured, may be concealed, or in which he may suspect them to be; and in case of resistance, may arrest any person who may resist the execution of such warrant, and carry him before some judge or justice of the peace, to be dealt with as other persons obstructing the execution of such process; and the officer executing such warrant may call to his assistance the power of the county, in the same manner as in the execution of other process. And any officer to whom any such warrant may be directed and delivered, who shall neglect or refuse to execute and return the same according to law, or otherwise fail to perform any of the duties herein required of him, shall forfeit and pay a sum not exceeding one thousand dollars, nor less than one hundred dollars, to be recovered by indictment, to the use of the county, in any court of competent jurisdiction.

§ 219. *Defense.*—Whoever is aggrieved by the issuing of such warrant, may apply to such judge, or if he is absent to any other judge of a court of record, who, if he is satisfied upon the affidavit of the applicant that there is good reason to believe injustice has or been, is about to be done by the execution of such warrant, shall issue a citation to all persons interested therein, commanding them to appear before such judge, at a place and time to be in such citation named, which shall be executed by the sheriff or coroner. And the judge shall have the power to enforce obedience to such citation by attachment, to be issued by him, and to proceed in a summary way, and determine according to right and justice, and may issue his warrant for the restoration of any book, record, paper, document or other article of property which shall appear to him to have been improperly seized or delivered over; which warrant shall be executed in the same manner, and the

Assuming Corporate Name. - - - Nuisance.

officer to whom it is directed shall have the same powers, and be liable to the same penalties for neglect of duty, as in case of other warrants. Any proceeding under this and the two preceding sections shall not be held to determine the right of any person to such office, but such right may be contested in the manner provided by law.

NAME.

§ 220. *Assuming Corporate.*—If any company, association or person puts forth any sign or advertisement, and therein assumes, for the purpose of soliciting business, a corporate name, not being incorporated, or being incorporated, puts forth any sign or advertisement assuming any other or different name than that by which it is incorporated or authorized by law to act, such company, association or person shall be fined not less than ten dollars nor more than two hundred dollars, and a like sum for each day he or it shall continue to offend after having been once fined.

NUISANCES.

§ 221. *Enumeration.*—It is a public nuisance :

1. To cause or suffer the carcass of any animal, or any offal, filth or noisome substance to be collected, deposited or to remain in any place to the prejudice of others.
2. To throw or deposit any offal or other offensive matter, or the carcass of any animal, in any water-course, lake, pond, spring, well, common sewer, street or public highway.
3. To corrupt or render unwholesome or impure the water of any spring, river, stream, pond or lake, to the injury or prejudice of others.
4. To obstruct or impede, without legal authority, the passage of any navigable river or waters.
5. To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.
6. To carry on the business of manufacturing gunpowder, nitro-glycerine, or other highly explosive substances, or mixing or grinding the materials therefor, in any building within twenty rods of any valuable building erected at the time such business may be commenced.
7. To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within fifty rods of any occupied dwelling-house.
8. To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture which, by occasioning noxious exhalations, offensive smells or otherwise is offensive or dangerous to the health of individuals or of the public.
9. To advertise wares or occupation by painting notices of the same on or affixing them to fences or other private property, or on rocks or other

Obscene Books. - - - Depositing with Common Carrier.

natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities: *Provided*, that nothing in this section contained shall be construed to prevent the municipal authorities of any incorporated city, town or village from declaring what shall be nuisances, and abating the same within their limits.

§ 222. *Punishment.*—Whoever causes, erects or continues any such nuisance shall, for the first offense, be fined not exceeding one hundred dollars, and for a subsequent offense shall be fined in a like amount, and confined in the county jail not exceeding three months. Every such nuisance, when a conviction therefor is had in a court of record, may, by order of the court before which the conviction is had, be abated by the sheriff or other proper officer at the expense of the defendant, and it shall be no defense to any proceeding under this section, that the nuisance is erected or continued by virtue or permission of any law of this state.

OBSCENE BOOKS, ETC.

§ 223. *Circulating.*—Whoever brings or causes to be brought into this state, for sale or exhibition, or shall sell or offer to sell, or shall give away or offer to give away, or have in his possession, with or without intent to sell or give away, any obscene and indecent book, pamphlet, paper, drawing, lithograph, engraving, daguerreotype, photograph, stereoscopic picture, model, cast, instrument or article of indecent or immoral use, or shall advertise the same for sale, or write or cause to be written, or print or cause to be printed, any circular, handbill, card, book, pamphlet, advertisement or notice of any kind, or shall give information orally, stating when, how, or of whom, or by what means any of the said indecent and obscene articles and things hereinbefore mentioned can be purchased or otherwise obtained, or shall manufacture, draw and expose, or draw with intent to sell or to have sold, or print any such articles, shall be confined in the county jail not more than six months, or be fined not less than one hundred nor more than one thousand dollars for each offense. One-half of said fine to be paid to the informer upon whose evidence the person so offending shall be convicted and one-half to the school fund of the county in which the said conviction is obtained.

§ 224. *Depositing with Common Carrier.*—If any person shall deposit or cause to be deposited in any post office within this state, or place in charge of any express company, or person connected therewith, or of any common carrier or other person, any of the obscene and indecent articles and things mentioned in the preceding section, or any circular, handbill, card, advertisement, book, pamphlet or notice of any kind, or shall give oral information stating where, how or of whom such indecent and obscene articles or things can be purchased or otherwise obtained in any manner, with the intent of having the same conveyed by mail or express, or in any

Perjury. - - - Personal Liberty.

other manner; or if any person shall knowingly or willfully receive the same with intent to carry or convey, or shall carry or convey the same by express, or in any other manner (except in the United States mail); he shall be subject, for each offense, to the same fines and penalties as are prescribed in the preceding section, and said fine shall be divided and paid in the same manner as therein provided.

PERJURY.

§ 225. *Punishment.*—Every person, having taken a lawful oath or made affirmation, in any judicial proceeding, or in any other matter where by law an oath or affirmation is required, who shall swear or affirm willfully, corruptly and falsely, in a matter material to the issue or point in question, or shall suborn any other person to swear or affirm as aforesaid, shall be deemed guilty of perjury or subornation of perjury (as the case may be), and shall be imprisoned in the penitentiary not less than one year nor more than fourteen years.

§ 226. *May be Murder.*—Every person who, by willful and corrupt perjury or subornation of perjury, shall procure the conviction and execution of any innocent person, shall be deemed and adjudged guilty of murder, and punished accordingly.

§ 227. *Indictment.*—In every indictment for perjury or subornation of perjury it shall be sufficient to set forth the substance of the offense charged upon the defendant, and before what court or authority the oath or affirmation was taken, averring such court or authority to have had full power to administer the same, together with the proper averments to falsify the matter wherein the perjury is assigned, without setting forth any part of the record or proceedings, either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court or other authority before whom the perjury was committed, or the form of the oath or affirmation, or the manner of administering the same.

§ 228. *Attempt to Suborn.*—Whoever endeavors to incite or procure any other person to commit perjury, though no perjury is committed, shall be imprisoned in the penitentiary not less than one nor more than five years, or confined in the county jail not exceeding one year, and fined not exceeding one thousand dollars.

PERSONAL LIBERTY.

§ 229. All public officers, sheriffs, coroners, jailers, constables or other officers or persons having the custody of any person committed, imprisoned or restrained of his liberty for any alleged cause whatever, shall, except in cases of imminent danger of escape, admit any practicing attorney at law of this state, whom such person so restrained of his liberty may desire to see or consult, to see and consult such person so imprisoned, alone and in private, at the jail or other place of custody; and when any such prisoner is about to

Poisoning. - - - Prize Fighting.

be removed beyond the limits of this state by any person or public officer, under any pretense whatever, he shall at all times be entitled to reasonable delay for the purpose of obtaining counsel, and of availing himself of the laws of this state for the security of personal liberty. If any public officer, or other person aforesaid, shall violate the provisions of this act, he shall, for every such offense, forfeit and pay to the person aggrieved, one hundred dollars, to be recovered by action of debt, in any court of competent jurisdiction.

POISONING.

§ 230. *Punishment.*—Whoever willfully and maliciously administers or causes to be administered or taken by any person, any noxious or destructive substance or liquid, with intent to cause the death of such person, or mingles any poison with food, drink or medicine, or willfully poisons any spring, well or reservoir of water, with such intent, shall be imprisoned in the penitentiary not exceeding twenty years.

PRIZE FIGHTING.

§ 231. *Sending Challenge—Training for.*—Whoever sends, publishes or causes to be sent or published, or otherwise made known, any challenge to fight what is commonly known as a prize fight, or shall accept any such challenge, or cause the same to be accepted, or goes into training preparatory to such fight, or acts as trainer for any person contemplating any participation in such fight, or witnesses such training, or engages as a witness in any such fight, shall be confined in the county jail not exceeding six months, and fined not exceeding five hundred dollars.

§ 232. *Engaging in.*—Whoever, by previous appointment or arrangement, meets another person and engages in a prize fight, shall be imprisoned in the penitentiary not less than one nor more than ten years.

§ 233. *Aids, Seconds, etc.*—Whoever is present at such fight as an aid, second or surgeon, or advises, encourages or promotes such fight, shall be imprisoned in the penitentiary not less than one nor more than five years, or be confined in the county jail not exceeding one year and fined not exceeding one thousand dollars.

§ 234. *Leaving the State to Fight.*—Whoever, being an inhabitant or resident of this state, by previous appointment or engagement made therein, leaves the state and engages in a fight with another person without the limits thereof, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding five thousand dollars.

§ 235. *Sparring and Boxing Exhibitions.*—Whoever instigates, carries on, promotes or engages in as a witness, any sparring or boxing exhibition, shall be fined not exceeding five hundred dollars, or confined in the county jail not exceeding six months.

Rape. - - - Receiving and Restoring Stolen Property.

§ 236. *Preventing.*—Any person who shall, upon complaint made before any judge or justice of the peace, appear to be about to engage in any such fight or sparring or boxing exhibition, may be compelled to enter into bond with security to keep the peace, as in other cases of threatened breaches of the peace.

RAPE.

§ 237. *Punishment.*—Rape is the carnal knowledge of a female, forcibly and against her will. Every male person of the age of fourteen years and upwards, who shall have carnal knowledge of any female child under the age of ten years, either with or without her consent, shall be adjudged to be guilty of the crime of rape. Every person convicted of the crime of rape shall be imprisoned in the penitentiary for a term not less than one year, and may extend to life.

§ 238. *Emission.*—It shall not be necessary to prove emission to convict any person of the crime of rape.

RECEIVING AND RESTORING STOLEN PROPERTY.

§ 239. *Receiving.*—Every person who, for his own gain, or to prevent the owner from again possessing his property, shall buy, receive or aid in concealing stolen goods, or any thing, the stealing of which is declared to be larceny, or property obtained by robbery or burglary, knowing the same to have been so obtained, shall be imprisoned in the penitentiary not less than one nor more than ten years, or if such goods or other property or thing does not exceed the value of fifteen dollars, he shall be fined not exceeding one thousand dollars, and confined in the county jail not exceeding one year.

§ 240. *Second Offense.*—Whoever, after having been convicted of the offense of buying, receiving or aiding in the concealment of stolen money, goods or any property, the stealing of which is declared to be larceny, or property obtained by robbery or burglary, if he be again convicted of a like offense; or whoever, at the same term of court, is convicted of three distinct acts of buying, receiving or aiding in the concealment of stolen property, or property obtained by robbery or burglary, knowing that the same was so obtained, shall be imprisoned in the penitentiary not less than two nor more than fifteen years.

§ 241. *Procedure.*—In any prosecution for the offense of buying, receiving or aiding in the concealment of stolen property, or property obtained by robbery or burglary, knowing that the same was so obtained, it shall not be necessary to aver, nor to prove on the trial, that the person who stole, robbed or took the property has been convicted.

§ 242. *Property of Railroads.*—If any person shall purchase or receive for sale from any other person any link, pin, bearing, journal, or other article

Restoring Stolen Goods. - - - Resisting Officers. - - - Robbery.

of iron, brass or other metal, which has been manufactured and is used exclusively for railroad purposes, and which shall have stamped thereon the name of some railroad company, or the initial letter thereof, without the consent in writing of the president, general manager or general superintendent of such railroad company, such person shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and be imprisoned not less than ten days nor more than ninety.

§ 243. *Restoring Stolen Goods.*—All property obtained by larceny, robbery or burglary, shall be restored to the owner, and no sale, whether in good faith on the part of the purchaser or not, shall divest the owner of his right to such property. Such owner may maintain his action not only against the felon, but against any person in whose possession he may find the same.

RESISTANCE TO OFFICERS.

§ 244. *In Executing Process.*—If any person shall knowingly and willfully obstruct, resist or oppose any sheriff, deputy sheriff, coroner, constable or other officer of this state, or other person duly authorized, in serving or attempting to serve any lawful process or order of any court, judge or justice of the peace, or any other legal process whatsoever, or shall assault or beat any sheriff, deputy sheriff, coroner, constable or other officer, or person duly authorized, in serving or executing, or attempting to serve or execute any process or order aforesaid, or for having served or executed or attempted to serve or execute the same; every person so offending shall be fined not exceeding five hundred dollars, and imprisoned not exceeding one year.

§ 245. *Refusing to Join Posse.*—Every male person above eighteen years of age, who shall neglect or refuse to join the *posse comitatus*, or power of the county, by neglecting or refusing to aid and assist in taking, or arresting or securing any person against whom there may have issued any civil or criminal process, or by neglecting or refusing to aid and assist in retaking or securing any person who, after having been arrested or confined, may have escaped from such arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace, or the commission of any criminal offense, being thereto lawfully required by any sheriff, deputy sheriff, coroner, constable, judge or justice of the peace, or other officer concerned in the administration of justice, shall be fined not less than ten dollars nor more than fifty dollars.

ROBBERY.

§ 246. *Definition and Punishment.*—Robbery is the felonious and violent taking of money, goods or other valuable thing, from the person of another by force or intimidation. Every person guilty of robbery shall be imprisoned in the penitentiary not less than one year nor more than four-

Racing, Routs, Riots, Unlawful Assemblies, etc.

teen years. Or if he is armed with a dangerous weapon, with intent, if resisted, to kill or maim such person, or being so armed, he wounds or strikes him, or if he has any confederate present so armed, to aid or abet him, he may be imprisoned for any term of years or for life.

RACING, ROUTS, RIOTS, UNLAWFUL ASSEMBLIES, ETC.

§ 247. *Racing*.—Whoever shall be guilty of driving or racing on any public highway, in such a manner as to endanger the persons or lives of others, shall be fined not exceeding one hundred dollars, or confined in the county jail not more than thirty days.

§ 248. *Rout*.—If two or more persons shall meet to do an unlawful act, upon a common cause of quarrel, and make advances towards it, they shall be deemed guilty of a rout, and shall be severally fined not exceeding one hundred dollars, or confined in the county jail not exceeding four months.

§ 249. *Riot*.—If two or more persons actually do an unlawful act, with force or violence, against the person or property of another, with or without a common cause of quarrel, or even do a lawful act in a violent and tumultuous manner, the persons so offending shall be deemed guilty of a riot, and shall severally be fined not exceeding two hundred dollars, or confined in the county jail not exceeding six months.

§ 250. *Affray*.—If two or more persons shall, by agreement, fight in a public place, to the terror of the citizens of this state, the persons so offending shall be deemed guilty of an affray, and severally fined not exceeding one hundred dollars.

§ 251. *Unlawful Assembly*.—If two or more persons shall assemble together to do an unlawful act, and separate without doing or advancing towards it, such persons shall be deemed guilty of an unlawful assembly, and be severally fined not exceeding one hundred dollars.

§ 252. *Unlawful Assembly*.—If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being desired or commanded so to do by a judge, justice of the peace, sheriff, coroner, constable or other public officer, the persons so offending shall be severally fined not exceeding two hundred dollars.

§ 253. *Suppression*.—When twelve or more persons, any of them armed with clubs or dangerous weapons, or thirty or more, armed or unarmed, are unlawfully, riotously or tumultuously assembled in any city, village or town, it shall be the duty of each of the municipal officers, constables and justices of the peace thereof, and of the sheriff of the county and his deputies, to go among the persons so assembled, or as near to them as they can safely go, and in the name of the state command them immediately and peaceably to disperse; and if they do not obey, such officers shall command the assist-

Riots. - - - Refusal to Disperse. - - - Injuries to Property. - - - Saltpetre Caves.

ance of all persons present, in arresting and securing the persons so unlawfully assembled; and every person refusing to disperse or to assist as aforesaid shall be deemed one of such unlawful assembly, and shall be fined not exceeding five hundred dollars, and confined in the county jail not exceeding one year; and each such officer having notice of such unlawful assembly and refusing or neglecting to do his duty in relation thereto, as aforesaid, shall be fined not exceeding two hundred dollars.

§ 254. *Refusal to Disperse.*—When persons so riotously or unlawfully assembled neglect or refuse on command as aforesaid to disperse without unnecessary delay, any two of the magistrates or officers aforesaid may require the aid of a sufficient number of persons, in arms or otherwise, and proceed in such manner as they judge expedient to suppress such riotous assembly, and arrest and secure the persons composing it; and when an armed force is thus called out, they shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which they receive from the governor, any judge of a court of record, the sheriff of the county, or any two of the magistrates or officers mentioned in the preceding section.

§ 255. *Killing Justified.*—If in the efforts made as aforesaid, to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, though the number remaining is less than twelve, any such persons, or any persons present as spectators or otherwise, are killed or wounded, said magistrates and officers, and persons acting with them by their order, shall be held guiltless and justified in law; if any of said magistrates or officers, or persons thus acting with them, are killed or wounded, all persons so unlawfully or riotously assembled, and all other persons who refused, when required, to aid such magistrates and officers, shall be held answerable therefor.

§ 256. *Injuries to Property.*—If any persons, thus unlawfully and riotously assembled, pull down or begin to pull down or destroy any dwelling-house, building, ship or vessel, or perpetrate any premeditated injury, not a felony, on any person, each shall be imprisoned in the penitentiary not more than five years, or fined not exceeding five hundred dollars, and shall also be liable to any person injured, in an action of trespass, to the full amount of damages by him sustained.

SALTPETRE CAVES.

§ 257. *Failure to Protect.*—Whoever works any saltpetre cave or other place where saltpetre is taken or manufactured, without protecting the same from the approach of cattle or other stock by a good and sufficient fence, shall be fined not less than three dollars nor more than one hundred dollars, and in a like sum for each day he shall allow the same to remain so unprotected after having been once fined.

Infected Sheep. - - - Sunday Disturbance. - - - Treason.

SHEEP.

§ 258. Any person who shall hereafter knowingly and willfully bring or cause to be brought into this state, any sheep or other domestic animals infected with contagious disease, or who shall knowingly and willfully suffer or permit sheep or other domestic animals infected with contagious disease to run at large, shall be fined in any sum not exceeding one hundred dollars, and shall be liable in a civil action for all damages occasioned thereby.

SUNDAY.

§ 259. *Tippling House on.*—Whoever keeps open any tippling house, or place where liquor is sold or given away, upon the first day of the week, commonly called Sunday, shall be fined not exceeding two hundred dollars.

§ 260. *Definition.*—Sunday shall include the time from midnight to midnight.

§ 261. *Disturbing Peace of Society on.*—Whoever disturbs the peace and good order of society by labor (works of necessity and charity excepted), or by any amusement or diversion on Sunday, shall be fined not exceeding twenty-five dollars. This section shall not be construed to prevent watermen and railroad companies from landing their passengers, or watermen from loading and unloading their cargoes, or ferrymen from carrying over the water, travelers and persons moving their families, on the first day of the week, nor to prevent the due exercise of the rights of conscience, by whomsoever thinks proper to keep any other day as a sabbath.

§ 262. *Disturbing Peace of Family on.*—Whoever shall be guilty of any noise, rout or amusement on the first day of the week called Sunday, whereby the peace of any private family may be disturbed, shall be fined not exceeding twenty-five dollars.

TREASON.

§ 263. *Who can Commit.*—Crimes against the government and people shall consist in treason and misprision of treason, and can only be committed by persons owing allegiance to the state.

§ 264. *Punishment.*—Treason shall consist in levying war against the government and people of this state, in the same, or being adherent to the enemies of this state, giving them aid, advice and comfort in this state or elsewhere. Any person being thereof duly convicted of open deed, by two or more witnesses, or voluntary confession in open court, shall suffer the pains and penalty of death; and when the overt act of treason shall be committed without the limits of this state, the person charged therewith may be arrested, tried and punished in any county in this state, within the limits of which he may be found; and the offense may be charged to have been committed in the county where he may be arrested.

TRESPASS. - - - Vagabonds.

§ 265. *Misprisions of Treason.*—Misprisions of treason shall consist in the knowledge and concealment of treason, without otherwise assenting to or participating in the crime. Any person found guilty thereof shall be imprisoned in the penitentiary not exceeding two years.

TRESPASS.

§ 266. *Upon Gardens, etc.*—Whoever willfully enters and passes over any garden, yard or other improved field, after being expressly forbidden so to do by the owner or occupant thereof, shall be fined not exceeding five dollars.

§ 267. *Upon Orchards, etc.*—Whoever shall hereafter enter the inclosure of any person without leave of the owner, and pick, destroy or carry away any part or portion of the fruit of any apple, pear, peach, plum or other fruit tree, vine or bush, shall be fined not exceeding one hundred dollars.

§ 268. *Upon Coal Mines, Manufactories, etc.*—Whoever, without authority of law, and not being the owner or agent of adjoining lands, enters the coal bank, mine, shaft, manufactory, or place where workmen are employed, of another, without the expressed or implied consent of the owner or manager thereof, after notice that such entry is forbidden, shall be fined not exceeding two hundred dollars, or confined in the county jail not exceeding six months, in the discretion of the court.

§ 269. *Cutting Trees, etc.*—Whoever shall knowingly and willfully, without color of title made in good faith, cut, box, fell, bore, or destroy any tree or sapling, standing or growing upon the land of another, without the consent of the owner of the land, or if the land belongs to the state, is school land, canal land, or belongs to any association or corporation, without the consent of the proper authorities, or persons having legal charge thereof, shall be fined not less than three dollars, nor more than two hundred dollars, or confined in the county jail not exceeding three months.

VAGABONDS.

§ 270. *Enumeration and Punishment.*—Vagabonds, idle and dissolute persons who go about begging, persons who use any juggling or unlawful games or plays, runaways, pilferers, common drunkards, common night walkers, lewd, wanton and lascivious persons in speech or behavior, common railers and brawlers, persons who habitually neglect their employment or calling, and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business, and habitually misspend their time by frequenting houses of ill-fame, gaming houses or tippling shops, may be confined in the county jail, or in the work-house, if any there be in the county, or in the house of correction, if any there be in the county to which the county has a right to commit any person, not exceeding six months.

 Secreting Witnesses. - - - Attempts to Commit Offenses. - - - Accessories.

§ 271. *Conviction Before a Justice.*—When a person is convicted before a justice of the peace or police magistrate of any offense mentioned in the preceding section, he may, instead of the punishment therein mentioned, be fined not exceeding twenty dollars, with or without a condition that if the same, with the costs of the proceeding, is not paid within the time specified, he shall be committed to the county jail, or to the work-house, if any there be within the county, or to the house of correction, if any there be in the county to which the county has a right to commit any person, as is provided in the preceding section; which conditional sentence shall be carried into execution as in other cases of commitment.

WITNESSES.

§ 272. Whoever by hiring, persuasion or otherwise, induces any witness in any criminal cause, or any person having knowledge of any fact tending to show the guilt or innocence of any person suspected or charged with having committed a crime, to leave the state, or secrete himself so that he cannot be produced as a witness at any examination or trial of the person so suspected or charged, shall be fined not exceeding one thousand dollars or confined in the county jail not exceeding one year or both.

DIVISION II.

GENERAL PROVISIONS.

SECTION 1. *Attempt to Commit an Offense.*—Whoever attempts to commit any offense prohibited by law, and does any act towards it but fails, or is intercepted or prevented in its execution, where no express provision is made by law for the punishment of such attempt, shall be punished, when the offense thus attempted is a felony, by imprisonment in the penitentiary not less than one, nor more than five years; in all other cases, by fine not exceeding three hundred dollars, or by confinement in the county jail not exceeding six months.

ACCESSORIES.

§ 2. *Before the Fact.*—An accessory is he who stands by, and aids, abets, or assists, or who, not being present, aiding, abetting or assisting, hath advised, encouraged, aided or abetted the perpetration of the crime. He who thus aids, abets, assists, advises or encourages, shall be considered as principal, and punished accordingly.

§ 3. *May be Punished Independently of Principal.*—Every such accessory, when a crime is committed within or without this state by his aid or procurement in this state, may be indicted and convicted at the same time as the principal, or before, or after his conviction, and whether the principal is convicted or amenable to justice or not, and punished as principal.

Div. II. Definition of Offenses. - - - Who Capable of Committing.

§ 4. *After the Fact.*—Every person not standing in the relation of husband or wife, parent or child, brother or sister to the offender, who knows the fact that a crime has been committed, and conceals it from the magistrate, or who harbors, conceals, maintains or assists any principal felon, or any accessory before the fact, knowing him to be such, shall be deemed an accessory after the fact, and shall be punished by imprisonment not exceeding two years, and fine not exceeding five hundred dollars.

DEFINITION OF OFFENSES — WHO CAPABLE OF COMMITTING — DISABILITIES.

§ 5. *Felony.*—A felony is an offense punishable with death or by imprisonment in the penitentiary.

§ 6. *Misdemeanor.*—Every other offense is a misdemeanor. Where the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the doing of such act is a misdemeanor, and may be punished by fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding six months, or both, in the discretion of the court.

§ 7. *Infamous Crimes.*—Every person convicted of the crime of murder, rape, kidnapping, willful and corrupt perjury or subornation of perjury, arson, burglary, robbery, sodomy, or the crime against nature, incest, larceny, forgery, counterfeiting or bigamy, shall be deemed infamous, and shall forever thereafter be rendered incapable of holding any office of honor, trust or profit, of voting at any election, or serving as a juror, unless he is again restored to such rights by the terms of a pardon for the offense, or otherwise according to law.

§ 8. *What Constitutes an Offense.*—A criminal offense consists in a violation of a public law, in the commission of which there shall be a union or joint operation of act and intention, or criminal negligence.

§ 9. *Intention.*—Intention is manifested by the circumstances connected with the perpetration of the offense, and the sound mind and discretion of the person accused.

§ 10. *Sound Mind.*—A person shall be considered of sound mind who is neither an idiot nor lunatic, nor affected with insanity, and who hath arrived at the age of fourteen years, or before that age, if such person know the distinction between good and evil.

§ 11. *Infant.*—An infant under the age of ten years shall not be found guilty of any crime or misdemeanor.

§ 12. *Insanity.*—A lunatic or insane person, without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he may be charged: *Provided*, the act so charged as criminal shall have been committed in the condition of insanity. If upon the trial of a person charged with crime it shall appear from the evidence that the act was committed as charged, but that at the time of committing the same, the person so charged

Div. II. Definition of Offenses. - - - Disabilities.

was lunatic or insane, the jury shall so find by their verdict, and by their verdict shall further find whether such person has or has not entirely and permanently recovered from such lunacy or insanity, and in case the jury shall find such person has not entirely and permanently recovered from such lunacy or insanity, the court shall cause such person to be taken to a state hospital for the insane, and there kept in safety until he shall have fully and permanently recovered from such lunacy or insanity; but in case the jury shall find by their verdict that such person has entirely and permanently recovered from such lunacy or insanity, he shall be discharged from custody.

§ 13. *Becoming Insane.*—A person that becomes lunatic or insane after the commission of a crime or misdemeanor shall not be tried for the offense during the continuance of the lunacy or insanity. If, after the verdict of guilty, and before judgment pronounced, such person become lunatic or insane, then no judgment shall be given while such lunacy or insanity shall continue. And if, after judgment and before execution of the sentence, such person become lunatic or insane, then in case the punishment be capital, the execution thereof shall be stayed until the recovery of said person from the insanity or lunacy. In all of these cases, it shall be the duty of the court to impanel a jury to try the question whether the accused be, at the time of impaneling, insane or lunatic.

§ 14. *Idiocy.*—An idiot shall not be found guilty, or punished for any crime or misdemeanor, with which he may be charged.

§ 15. *Counseling Infant, Idiot or Lunatic to Commit Crime.*—Any person counseling, advising or encouraging an infant under the age of ten years, lunatic or idiot, to commit any offense, shall be prosecuted for such offense when committed, as principal, and if found guilty shall suffer the same punishment that would have been inflicted on such person counseling, advising or encouraging as aforesaid, had he committed the offense directly, without the intervention of such infant, lunatic or idiot.

§ 16. *Married Women Acting under Threats.*—A married woman acting under the threats, command or coercion of her husband, shall not be found guilty of any crime or misdemeanor not punishable with death: *Provided*, it appear from all the facts and circumstances of the case, that violent threats, command or coercion were used; and in such case the husband shall be prosecuted as principal, and receive the punishment which would otherwise have been inflicted on the wife if she had been found guilty.

§ 17. *Committing Crime under Compulsion.*—A person committing a crime or misdemeanor not punishable with death, under threats or menaces which sufficiently show that his life or member was in danger, or that he had reasonable cause to believe, and did believe, that his life or member was in danger, shall not be found guilty; and such threats and menaces being proved and established, the person compelling by such threats or menaces the commission of the offense, shall be considered as principal, and suffer the same punishment as if he had perpetrated the offense.

Div. III. Bailable Offenses. - - - Recognizances, Proceedings thereon.

§ 18. *Misfortune or Accident.*—Acts committed by misfortune or accident shall not be deemed criminal, where it satisfactorily appears that there was no evil design or intention, or culpable negligence.

§ 19. *Drunkenness.*—Drunkenness shall not be an excuse for any crime or misdemeanor, unless such drunkenness be occasioned by the fraud, contrivance or force of some other person, for the purpose of causing the perpetration of an offense; in which case, the person so causing said drunkenness, for such malignant purpose, shall be considered principal, and suffer the same punishment as would have been inflicted on the person committing the offense, if he had been possessed of sound reason and discretion.

PROSECUTION AND PUNISHMENT.

§ 20. *Of Offenses Herein Defined.*—All offenses herein defined shall be prosecuted and, on conviction, punished as by this act is prescribed, and not otherwise; and all offenses not provided for by statute law, may be punished by fine or imprisonment, in the discretion of the court: *Provided*, the fine shall in no case exceed five hundred dollars, and the imprisonment one year.

§ 21. *Civil Remedy Preserved.*—Nothing in this act contained shall be so construed as to prevent the party injured from having and maintaining a civil action for all damages and losses that he may have sustained in consequence of the commission of any criminal offense herein provided for; and no court shall allow or entertain the plea that the private injury is merged in the crime, or in any manner affected thereby: *Provided, however*, the record of conviction shall not be used as evidence in any civil action brought on any forged writing, or to recover the damages and losses sustained by the commission of any such criminal offense.

DIVISION III.

BAILABLE OFFENSES—RECOGNIZANCES, PROCEEDINGS THEREON.

SECTION 1. *Bailable Offenses.*—All persons shall be bailable before conviction, except for capital offenses where the proof is evident or the presumption great.

§ 2. *Recognizance—Form.*—All recognizances in criminal cases shall be taken to the People of the State of Illinois, and when not taken in a court of record in open court, shall be signed by the persons entering into the same, and approved and certified by the judge, justice of the peace or other officer taking the same.

§ 3. *Recognizance in Open Court.*—When a recognizance is taken in a court of record, it may be done in open court, and when so taken, need not be signed by the persons entering into the same.

§ 4. *Condition of Recognizance.*—The recognizance, except when otherwise provided, shall be so conditioned as to bind the accused or witness,

Div. III. Recognizances. - - - Sureties may Surrender Principals.

personally to appear at the court having jurisdiction of the offense, on the first day of the next term thereof, to be holden in the county (specifying the time and place of holding the same), or if the court is then sitting, on some day of the term to be designated therein, and from day to day, and from term to term, and from day to day of each term, until the final sentence or order of the court, to answer for the offense charged (or if an indictment has been found or information filed, to answer such indictment or information, or if the person bound is a witness, to testify in the case), and to abide such final sentence or order, and not depart without leave.

§ 5. *Recognizance to Appear Before a Justice.*—When a recognizance is taken for an offense cognizable by a justice of the peace, it shall be conditioned for the appearance of the accused before the justice of the peace taking the same, or before some other justice of the peace of the county where the offense was committed, on the day appointed by the justice for the trial of the offense.

§ 6. *Recognizance of Prisoner in Vacation.*—Where any person shall be committed to jail on a criminal charge, for want of good and sufficient bail, (except for treason, murder, or other offense punishable with death,) or for not entering into a recognizance to appear and testify, any judge or any two justices of the peace, may take such bail or recognizance in vacation, and may discharge such prisoner from his imprisonment.

§ 7. *Sufficiency of Bail.*—Each of the bail shall be worth the amount of bail expressed in the recognizance over and above the amount exempt from execution, but the court, judge, justice of the peace or officer, in taking bail, may allow more than two bail to justify severally in amounts less than that expressed in the recognizance, if the whole qualification be equivalent to two sufficient bail.

§ 8. *Proof of Sufficiency of Bail.*—The court, judge, justice of the peace or officer may examine the bail, on oath, touching their sufficiency, and may receive other evidence for or against the same, in such manner as he may deem proper.

§ 9. *No Recognizance Voidable for Want of Form.*—Every recognizance taken or attempted to be taken in pursuance of this act, shall, by all courts in this state, be held and adjudged to have been entered into voluntarily, and shall not be set aside or adjudged insufficient for want of form, either in the recognizance or in the certificate of the officer taking the same.

§ 10. *Recognizances Delivered to Clerk.*—All recognizances taken in criminal cases shall be delivered to the clerk of the court before which the accused or witness is bound to appear, on or before the day mentioned in such recognizance for his appearance.

§ 11. *Sureties may Surrender Principal.*—In all cases of bail for the appearance of any person charged with a criminal offense, his sureties or any of them, may, at any time before default upon the bond or recogni-

Div. III. Recognizances. - - - Forfeiture.

sance, surrender the principal in their exoneration, or the principal may surrender himself to the proper officer.

§ 12. *May Arrest Principal.*—For the purpose of surrendering the principal, the sureties, or any of them, may arrest the principal, at any place, or may authorize any other person to make the arrest.

§ 13. *May Require Sheriff to Arrest.*—The sureties, or any of them, may require the sheriff, coroner or any constable of the county where the principal may be found, to make the arrest within his county, by producing a certified copy of the recognizance, and, in person or by agent, accompanying the officer to receive the person arrested, and upon tender to such officer of like fees as are allowed for executing *capias* in criminal cases.

§ 14. *Surrender to Sheriff.*—The surrender shall be made to the sheriff of the county where the principal is required to appear, or to the warden of the penitentiary, when so required.

§ 15. *Proceedings on Surrender.*—On such surrender, and the delivery to him of a certified copy of the recognizance, the sheriff or warden shall take such person into custody, and, by writing, acknowledge such surrender, and thereupon, the sureties shall be discharged from such recognizance, upon payment of all costs occasioned by any proceedings upon the recognizance.

§ 16. *Second Admittance to Bail.*—When any person charged with a criminal offense is surrendered by his sureties, he may be again admitted to bail in the same manner as if committed for not finding sureties to recognize for him.

§ 17. *Recognizance Forfeited.*—When any person who is accused of any criminal offense shall give bail for his appearance, and such person does not appear in accordance with the terms of the recognizance, the court shall declare such recognizance forfeited, and the clerk of the court shall thereupon issue a *scire facias* against such person and his sureties, returnable on the first day of the next term of the court, to show cause why such judgment should not be rendered against such person and his sureties for the amount of the recognizance, which *scire facias* shall be served by the sheriff of the county where the court is held, upon such person and his sureties, by reading the same to the defendants named in such *scire facias*, at least five days before the first day of the term to which the same is returnable; and, in case the person aforesaid cannot be found by the sheriff, he shall make return of that fact to the court. The court shall, thereupon, enter judgment by default against the defendants for the amount of the recognizance, unless the defendants shall appear and defend such cause; and if the defendants shall appear and interpose a defense, then the cause shall be tried in the same manner as other causes of a like nature, after any such recognizance shall be declared forfeited as aforesaid. Before judgment, the court may, in its discretion, set aside such forfeiture, upon the accused being brought or coming into open court, and showing to the court, by affidavit, that he was unable to appear in court according to the terms of the recognizance, by reason of sickness or

Div. IV. Time of Commencing Prosecutions. - - - Limitations.

some other cause which shall satisfy the court that the accused had not been guilty of any laches or negligence: *Provided*, that no such forfeiture of a recognizance shall be set aside until the accused shall pay the costs of such recognizance.

§ 18. *Neglect to Record, or Formal Defects, no Bar.*—Such action shall not be barred or defeated, nor shall judgment be arrested, by reason of neglect or omission to note or record the default of any principal or surety at the term when it happens, nor by reason of a defect in the form of the recognizance, if it sufficiently appears from the tenor thereof at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take such recognizance.

§ 19. *When Bail to be Exonerated on Default Made.*—If, by the act of God, bail are unable without their fault to surrender their principal, they shall, on motion, before final judgment on *scire facias*, be exonerated and discharged by the court, with or without costs, as the court deem equitable.

DIVISION IV.

TIME OF COMMENCING PROSECUTIONS — LIMITATIONS.

SECTION 1. *For Murder or Manslaughter.*—An indictment for the crime of murder or manslaughter may be found at any period after the death of the person alleged to have been killed.

§ 2. *For Arson or Forgery.*—An indictment for arson or forgery may be found at any time after the commission of the crime.

§ 3. *For other Felonies.*—All indictments for other felonies must be found within three years next after the commission of the crime, except as otherwise provided by law.

§ 4. *For other Offenses, etc.*—All prosecutions by indictment or otherwise, for misdemeanors, or for any fine or forfeiture under any penal statute, shall be commenced within one year and six months from the time of committing the offense or incurring the fine or forfeiture, except as otherwise provided by law.

§ 5. *Time of Absence not Counted.*—No period during which the party charged was not usually and publicly resident within this state shall be included in the time of limitation.

§ 6. *Time of Pendency of Proceedings not Counted.*—When an indictment, information or suit is quashed, or the proceedings on the same are set aside, or reversed on writ of error, the time during the pendency of such indictment, information or suit, so quashed, set aside or reversed, shall not be reckoned within the time limited by this act, so as to bar any new indictment, information or suit for the same offense.

DIVISION V.

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

SECTION 1. *Conservators of the Peace.*—All judges of courts of record within their respective jurisdictions, and justices of the peace in their respective counties, are conservators of the peace, and shall cause to be kept all laws made for the preservation of the peace, and may require persons to give security to keep the peace, or for their good behavior, or both, as provided by this act.

§ 2. *Complaint.*—When complaint is made to any such judge or justice of the peace, that a person has threatened or is about to commit an offense against the person or property of another, he shall examine on oath the complainant, and any witness who may be produced, and reduce the complaint to writing, and cause it to be subscribed and sworn to by the complainant.

§ 3. *Warrant.*—If such judge or justice of the peace is satisfied that there is danger that such offense will be committed, he shall issue a warrant requiring the proper officer to whom it is directed forthwith to apprehend the person complained of, and bring him before such magistrate, or before some other court, or magistrate having jurisdiction in the premises.

§ 4. *Examination.*—When the person complained of is brought before the court or magistrate, if the charge is controverted the testimony produced on both sides shall be heard.

§ 5. *When Complaint is not Sustained — Costs.*—If it appear that there is no just reason to fear the commission of the offense the defendant shall be discharged, and if the judge or justice of the peace is of the opinion that the prosecution was commenced maliciously without probable cause, he may give judgment against the complainant for the costs of the prosecution.

§ 6. *Recognizance.*—If, however, there is just reason to fear the commission of such offense, the defendant shall be required to give a recognizance, with sufficient security, in such sum as the court or magistrate may direct, to keep the peace toward all people of this state, and especially toward the person against whom or whose property there is reason to fear the offense may be committed, for such time, not exceeding twelve months, as the court or magistrate may order. But he shall not be bound over to the next court unless he is also charged with some other offense for which he ought to be held to answer at such court.

§ 7. *Discharge or Commitment.*—If the person so ordered to recognize complies with the order, he shall be discharged; but if he refuses or neglects, the court or magistrate shall commit him to jail during the period for which he was required to give security, or until he so recognizes, stating in the warrant the cause of commitment, with the sum and time for which the security was required.

Div. V. Recognizance of Witnesses. - - - Appeals, etc.

§ 8. *Costs.*—When a person is required to give security to keep the peace, or for his good behavior, the court or magistrate may further order that the costs of the prosecution, or any part thereof, shall be paid by such person, who shall stand committed until the costs are paid, or he is otherwise legally discharged.

§ 9. *Appeal.*—Whoever is aggrieved by the order of the magistrate requiring him to recognize as aforesaid, may, on giving the security required, appeal to the next term of the circuit court to be held in the same county, (except that in the county of Cook the appeal shall be taken to the criminal court of Cook county). Such recognizance shall, in case of an appeal, contain a condition that the appellant will pay the costs of the appeal, in case the order is affirmed, or the appeal dismissed.

§ 10. *Recognizance of Witnesses.*—The court or magistrate shall, when necessary, require the witnesses to support the complaint to recognize for their appearance at the court appealed to.

§ 11. *Proceedings on Appeal.*—The court before which the appeal is prosecuted may affirm the order, or discharge the appellant, or may require him to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court deems proper, and may make such order in relation to the costs of prosecution as may be deemed just and reasonable.

§ 12. *Failing to Prosecute Appeal.*—If the appellant fails to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the conditions, without an affirmance of the judgment or order of the magistrate, and shall also stand as his security for any costs which the court appealed to orders to be paid by the appellant.

§ 13. *Discharge on Recognizance after Commitment.*—A person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace of the county, on giving such security as was required.

§ 14. *Recognizance Returned to Circuit Court—How Prosecuted.*—Every recognizance taken in pursuance of the foregoing provisions shall be transmitted by the magistrate to the circuit court of the county, (except that in the county of Cook it shall be transmitted to the criminal court of Cook county,) by the first day of the next term, and shall be filed of record by the clerk, and upon a breach of the condition the same shall be prosecuted by the state's attorney.

§ 15. *Conviction not Necessary.*—In proceeding upon a recognizance it shall not be necessary to show a conviction of the defendant of an offense against the person or property of another.

§ 16. *Breach of Peace in Presence of a Court or Magistrate.*—A person who, in the presence of a court or magistrate, commits, or threatens to commit, an offense against the person or property of another, may be ordered, without process, to enter into a recognizance to keep the peace for a term

Div. VI. Pursuit of Felon. - - - Arrest of Offenders. - - - By Whom and How Made.

not exceeding twelve months, and in case of refusal, to be committed as in other cases.

§ 17. *Court may Remit Part of Penalty.*—When upon a suit brought upon a recognizance the penalty thereof is adjudged forfeited, the court may, on the petition of any defendant, remit such portion of it as the circumstances of the case render just and reasonable.

§ 18. *Sureties may Surrender Principal.*—The sureties of any person bound to keep the peace may at any time surrender their principal to the sheriff of the county in which the principal was bound, under the same rules and regulations governing the surrender of the principal in other criminal cases.

§ 19. *Principal may Again Recognize.*—The person so surrendered may recognize anew with sufficient sureties, before any judge or justice of the peace of the county, for the residue of the time, and shall thereupon be discharged.

§ 20. *Amendments.*—No proceeding to prevent a breach of the peace shall be dismissed on account of any informality or insufficiency in the complaint, or any writ or proceeding, but the same may be amended, by order of the court or magistrate, to conform to the truth in the case.

DIVISION VI.

PURSUIT OF FELON—ARREST OF OFFENDERS—BY WHOM AND HOW MADE.

SECTION 1. *Pursuit of Felon.*—When the fact that a felony has been committed shall come to the knowledge of any sheriff, coroner or constable, fresh pursuit shall be forthwith made after every person guilty thereof, by such sheriff, coroner, constable and all other persons who shall be by any of them commanded, or summoned for that purpose; every such officer who shall not do his duty in the premises shall be punished by fine in a sum not exceeding one hundred dollars, or imprisoned not exceeding three months.

§ 2. *Duty of Officers.*—It shall be the duty of every sheriff, coroner, constable, and every marshal, policeman, or other officer of any incorporated city, town or village, having the power of a sheriff or constable, when any criminal offense or breach of the peace is committed or attempted in his presence, forthwith to apprehend the offender and bring him before some justice of the peace, to be dealt with according to law; to suppress all riots and unlawful assemblies, and to keep the peace, and without delay to serve and execute all warrants, writs, precepts and other process to him lawfully directed.

§ 3. *Posse Comitatus.*—Every male person above the age of eighteen, when commanded by an officer to assist in arresting or securing an offender, shall obey such command.

Div. VII. Arrest. - - - Examination. - - - Commitment and Bail.

§ 4. *Arrests without Warrant.*—An arrest may be made by an officer or by a private person without warrant, for a criminal offense committed or attempted in his presence, and by an officer, when a criminal offense has in fact been committed, and he has reasonable ground for believing that the person to be arrested has committed it.

§ 5. *Magistrate may Make Arrest.*—A magistrate may orally order an officer or a private person to arrest any one committing, or attempting to commit, a criminal offense in the presence of such magistrate, which order shall authorize the arrest.

§ 6. *When Made.*—An arrest may be made on any day, or at any time of the day or night.

§ 7. *Person Arrested to be Taken Before a Magistrate.*—When an arrest is made without a warrant, either by an officer or a private person, the person arrested shall, without unnecessary delay, be taken before the nearest magistrate in the county, who will hear the case, for examination, and the prisoner shall be examined and dealt with as in cases of arrests upon warrant.

§ 8. *Recapture.*—If any prisoner shall escape or be rescued, the officer or person from whose possession or custody he escaped or was rescued, may immediately pursue and retake him, in any county in this state, without a warrant.

DIVISION VII.

ARREST, EXAMINATION, COMMITMENT AND BAIL.

SECTION 1. *What Magistrates may Examine Offenders.*—For the apprehension of persons charged with offenses, except such as are cognizable exclusively by justices of the peace, any judge of a court of record, in vacation as well as in term time, or any justice of the peace is authorized to issue process to carry into effect the following provisions of this act.

§ 2. *Complaint.*—Upon complaint made to any such judge or justice of the peace that any such criminal offense has been committed, he shall examine, on oath, the complainant and any witness produced by him, shall reduce the complaint to writing and cause it to be subscribed and sworn to by the complainant, which complaint shall contain a concise statement of the offense charged to have been committed, and the name of the person accused, and that the complainant has just and reasonable grounds to believe that such person committed the offense.

§ 3. *Warrant.*—If it appears that such offense has been committed, the judge or justice of the peace shall issue a warrant, directed to all sheriffs, coroners and constables within this state, stating the offense by name, or so that it can be clearly inferred, the name of the person accused, and requiring the officer to whom it is directed forthwith to take the person of the accused and bring him before such judge or justice, or in case of his absence, or

inability to act, before any other judge or justice of the county, and in the same warrant may require the officer to summon such witnesses as shall be therein named, to appear and give evidence on the examination.

§ 4. *Name.*—If the name of the defendant is unknown to the complainant or judge, or justice of the peace, he may be designated by any name, description or circumstances by which he can be identified with reasonable certainty, and if, upon arrest, he refuses to disclose his true name, he may be tried and convicted by the name used in the warrant.

§ 5. *Special Officer.*—The judge or justice of the peace issuing the warrant may make an order thereon authorizing a person, to be named in the order, to execute the same, and the person so named may execute such warrant in the same manner and shall have like powers as if he were the officer named in the warrant, and all sheriffs, coroners, constables and others, when required in their respective counties, shall aid in the execution of such warrant.

§ 6. *Pursuit and Arrest.*—If a person against whom a warrant is issued for any alleged offense, before or after the issuing of such warrant, escapes from, or is out of the county, the officer to whom such warrant is directed, may pursue and apprehend the party charged, in any county of this state, and for that purpose may command aid and exercise the same authority as in his own county.

§ 7. *When not Bailed.*—When a person is arrested in a county other than that in which the offense was committed, the officer shall take him before the judge or justice who issued the warrant, or, in his absence, before some other judge or justice of the peace of the county in which the warrant was issued.

§ 8. *Passing through other Counties.*—The officer, or any person so authorized, having the custody of a prisoner, may pass through any counties which may be in his route, between the place of arrest and the place to which he is taking the prisoner, and may lodge the prisoner in any jail on the route for safe custody for one night or more, as circumstances may require.

§ 9. *Before what Magistrate Prisoner Brought.*—Every person arrested by warrant, for any offense, where no other provision is made for his examination thereon, shall be brought before the judge or justice of the peace who issued the warrant, or if he is absent or unable to attend, before some other judge or justice of the same county; and the warrant, with a proper return thereon, signed by the person who made the arrest, shall be delivered to such judge or justice.

§ 10. *Adjournment.*—A judge or justice of the peace may, for good cause appearing, adjourn an examination or trial pending before himself, from time to time as occasion requires, not exceeding ten days at one time, without the consent of the defendant or person charged. In the meantime if the party is charged with an offense not bailable, he shall be committed;

Div. VII. Recognizance. - - - Examination. - - - Discharge.

otherwise he may be recognized in a sum and with sureties to the satisfaction of such judge or justice of the peace, for his appearance for such further examination, and for want of such recognizance he shall be committed to jail.

§ 11. *Default.*—If the person so recognized does not appear before the judge or justice of the peace, according to the condition of such recognizance, the judge or justice of the peace shall record the default, but such default may be set aside by the judge or justice, for good cause shown, on the appearance of the accused, at any time to which the matter may be continued by such judge or justice of the peace. And in case such default is not set aside as aforesaid, the judge or justice shall certify the recognizance with a record of the default to the court having cognizance of the offense, and like proceedings may be had thereupon as upon the breach of the condition of a recognizance for appearance before such court, or an action of debt may be maintained thereon.

§ 12. *Failing to Recognize on Adjournment.*—When a person fails to recognize, he may be committed to jail by an order of the judge or justice of the peace, which order shall be in writing, and contain a concise statement of the reason of such commitment, and the day and place appointed for his examination, and on the day appointed he may be brought before the judge or justice, by his verbal order to the officer who made the commitment, or by an order in writing, to a different person.

§ 13. *Amendments.*—The prisoner shall not, in any case, be discharged on account of any insufficiency or informality in the complaint, or on account of any informality in the warrant, or because it is not under the seal of the judge or justice, but the warrant may be amended by the judge or justice of the peace at any time pending the proceedings.

§ 14. *Examination.*—The judge or justice before whom any person charged with a criminal offense is brought, with or without a warrant, shall, as soon as may be, examine the witnesses in support of the prosecution, as well as those who may be produced on behalf of the accused, on oath, in the presence of the party charged, in relation to any matter connected with such charge which he may deem pertinent.

§ 15. *Separating of Witnesses.*—While a witness is being examined, the judge or justice of the peace may, if he sees cause, exclude from the place of examination all the other witnesses, or direct the witnesses to be kept separate, so that they cannot converse with each other, until they have been examined.

§ 16. *Discharge.*—If it appears to the judge or justice of the peace, upon the whole examination, that no offense has been committed, or that there is no probable cause for charging the prisoner with the offense, he shall be discharged.

§ 17. *Bail or Commitment.*—If it appears that an offense has been committed, and that there is probable cause to believe the prisoner guilty,

and if the offense is bailable by the judge or justice of the peace, and the prisoner offers sufficient bail, it shall be taken and the prisoner discharged; but if no sufficient bail is offered, or the offense is not bailable by the judge or justice, the prisoner shall be committed to jail for trial.

§ 18. *Witnesses to Recognize*.—When the prisoner is admitted to bail or committed, the judge or justice of the peace shall bind, by recognizance, such witnesses against the prisoner as he deems material, to appear and testify at the next court having cognizance of the offense, and in which the prisoner shall be held to answer: *Provided*, no such witness shall be required to give other security than his own recognizance for such appearance.

§ 19. *Married Women and Minors*.—When a married woman or a minor is a material witness, any other person may be allowed to recognize for the appearance of such witness; or the judge or justice of the peace may, in his discretion, take the recognizance of such married woman or minor, in a sum not exceeding fifty dollars, which shall be valid and binding in law, notwithstanding the coverture or minority: *Provided*, that no such minor or married woman shall be required to give other security than his or her own recognizance for such appearance.

§ 20. *Commitment of Witness*.—Witnesses required to recognize, shall, if they refuse, be committed to jail by the judge or justice, there to remain until they comply with such order, or are otherwise discharged according to law.

§ 21. *Mittimus*.—When an offender or witness is committed because he fails to enter into recognizance as required by law, or because the offense is not bailable, the judge or justice of the peace shall make out his warrant of commitment, directed to the sheriff, coroner or any constable, and containing a short recital of the cause of commitment, and commanding the officer to commit the prisoner to the county jail, and deliver him to the keeper thereof, and the jailer to receive him into his custody, and safely keep him until he is discharged by process of law. No mittimus shall be considered defective for want of the seal of the judge or justice, or other legal or technical form, if sufficient appear on its face to ascertain for what crime or offense the prisoner is committed.

§ 22. *Amount of Bail to be Indorsed on Mittimus*.—If the offense is bailable, or the person committed is a witness, the judge or justice of the peace shall indorse on the warrant of commitment the amount of bail required.

§ 23. *Witnesses to be Indorsed on Mittimus*.—The judge or justice of the peace committing any person upon a criminal charge, shall indorse upon the warrant of commitment the names and residences of the principal witnesses by whom the crime was proved before him.

§ 24. *Mittimus to be Delivered to Jailer*.—The officer delivering the prisoner to the custody of the jailer, shall also deliver to him such warrant of commitment, to be by him duly preserved.

Div. VIII. Search Warrants. - - - Search.

§ 25. *Witnesses Indorsed on Copy of Mittimus.*—Whenever any prisoner, in the custody of the sheriff of any county, on any warrant of commitment as aforesaid, shall, by himself or his attorney, demand of said sheriff a copy of said warrant of commitment, said sheriff shall indorse on the said copy the names of the witnesses written thereon as aforesaid, and deliver the same to the prisoner, or his counsel; and any justice or judge who shall neglect to write the name or names of the witnesses aforesaid on the warrant of commitment, or any sheriff who, on such demand, shall neglect to indorse the name of said witness or witnesses on any copy of said commitment, or deliver the same to the prisoner, or his counsel, each justice, judge or sheriff offending in the premises, shall be fined in the sum of twenty dollars, to be recovered by action of debt, in the name and for the use of any person who shall sue for the same, in any court of record.

DIVISION VIII.

SEARCH WARRANTS — SEARCH.

SECTION 1. *Complaint — Warrant for Stolen Goods.*—When complaint is made in writing, verified by affidavit, to any judge or justice of the peace, that personal property (particularly describing the same) has been stolen, embezzled, or fraudulently obtained by false tokens or pretenses, and that the complainant believes that it is concealed in any house or place (particularly describing the same), the judge or justice of the peace, if he is satisfied that there is reasonable cause for such belief, shall issue a warrant to search such house or place for such property.

§ 2. *For Other Property.*—Any such judge or justice of the peace may, on like complaint made on oath, issue search warrants, when satisfied that there is reasonable cause, in the following cases, to-wit:

First — To search for and seize counterfeit or spurious coin, forged bank notes and other forged instruments, or tools, machinery, or materials prepared or provided for making either of them.

Second — To search for and seize books, pamphlets, ballads, printed papers or other things containing obscene language, or obscene prints, pictures, figures or descriptions, manifestly tending to corrupt the morals of youth, and intended to be sold, loaned, circulated or distributed, or to be introduced into any family, school or place of education.

Third — To search for and seize lottery tickets, or materials for a lottery, unlawfully made, provided or procured, for the purpose of drawing a lottery.

Fourth — To search for and seize gaming apparatus, or implements used, or kept and provided to be used in unlawful gaming, in any gaming house, or in any building, apartment, or place resorted to for the purpose of unlawful gaming.

§ 3. *Search in Day-time.*—All such warrants shall be directed to the sheriff or any constable of the county, commanding such officer to search in

Div. VIII. Search. - - - Forcible Entrance. - - - Dangerous Weapons.

the day-time, the house or place, where the stolen property or other things for which he is required to search are believed to be concealed, (which place and property, or things to be searched for, shall be particularly designated and described in the warrant,) and to bring such stolen property or other things, when found, and the persons in whose possession they are found, to the judge or justice of the peace who issued the warrant, or to some other judge or justice of the peace, or court having cognizance of the case.

§ 4. *Search in Night-time.*—If there is satisfactory evidence that any property stolen, embezzled, or obtained by false tokens or pretenses, or that any of the other things for which a search warrant may be issued by the provisions of this act, are kept, concealed, prepared or used in a particular house or place, a warrant may be issued by two judges or justices of the peace, to authorize the search of such house or place in the night-time, and to bring the property or things described in the warrant or summons, and the persons in whose possession they are found, before either of the judges or justices who issued the warrant, or some other judge or justice of the peace of the county.

§ 5. *Forcible Entrance.*—The officer may break open any outer or inner door or window of a house, or anything therein, if, after notice of his authority and purpose, he is refused admittance, using no more force than is necessary.

§ 6. *Return must Specify Property Taken.*—The return of the officer shall particularly specify the property taken, and the place where and the person from whom the property is taken.

§ 7. *Disposal of Property.*—When an officer, in the execution of a search warrant, finds stolen or embezzled property, or seizes any of the other things for which a search is allowed by this act, all the property and things so seized shall be safely kept by direction of the judge, justice or court, so long as necessary for the purpose of being produced or used as evidence on any trial. As soon as may be afterwards, all such stolen and embezzled property shall be restored to the owner thereof, and all the other things seized by virtue of such warrants shall be burnt, or otherwise destroyed, under the direction of the judge, justice, or court.

§ 8. *Costs against Complainant.*—If, on the hearing, it appears that there was no probable cause for suing out the warrant, the whole costs may be taxed against the complainant, and execution awarded.

§ 9. *Search for Dangerous Weapons.*—When a person charged with a felony is suspected by the judge or justice of the peace before whom he is brought to have upon his person a dangerous weapon, or any thing which may be used as evidence of the commission of the offense, the judge or justice may direct him to be searched in his presence, and such weapon or other thing to be retained, subject to the order of the court in which the defendant may be tried.

DIVISION IX.

JURISDICTION OF JUSTICES OF THE PEACE, AND PROCEEDINGS BEFORE THEM IN SMALL OFFENSES.

SECTION 1. *Jurisdiction*.—Justices of the peace shall have original jurisdiction in all cases of misdemeanor, when the punishment is by fine only, and the fine does not exceed two hundred dollars, and also in all cases of assault and battery and affrays, in which the people are plaintiffs, and in cases arising under sections two hundred and seventy and two hundred and seventy-one of Division I of this act.

§ 2. *Arrest and Trial*.—In all cases of offenses, of which a justice of the peace has jurisdiction, he may, upon the affidavit of any competent person, issue his warrant to any constable of his county for the arrest of any person charged with either of said offenses, and upon the arrest of such person shall proceed to hear and determine the cause according to law.

§ 3. *Special Constable*.—Any justice of the peace may appoint a suitable person to act as constable in a criminal case, where there is a probability that a person charged with any offense will escape, or that goods and chattels will be removed, before application can be made to a qualified constable; and the person so appointed shall act as constable in that particular case, and no other; and any temporary appointment so made as aforesaid shall be made by a written indorsement, under the seal of the justice deputing, on the back of the process which the person receiving the same shall be deputed to execute.

§ 4. *Jury Trial*.—The person accused may have the cause tried by a jury upon the same conditions, and the jury shall be summoned and impaneled in the same manner, as in civil cases before justices of the peace: *Provided*, it shall not be necessary for the defendant to advance the jury fees.

§ 5. *Jury to Determine Penalty*.—If the jury find the accused guilty, they shall assess the fine, or fix the punishment, as aforesaid.

§ 6. *Judgment on Verdict Rendered*.—Upon the jury returning their verdict, the justice shall record the same in his docket or record book, and proceed to render judgment thereon accordingly, with costs. If the jury return a verdict of not guilty, the justice shall discharge the defendant without costs.

§ 7. *Execution to Issue*.—Upon the rendition of a judgment imposing a fine the justice shall, except as otherwise provided, issue execution against the goods and chattels of the defendant for the fine and costs, which may be levied upon any personal property of the defendant not exempt from execution, and proceedings may be had thereon as upon other executions.

§ 8. *Capias Issued*.—If the constable shall return upon such execution that the defendant has no goods and chattels whereof to make the money, the justice shall issue a capias against the body of the defendant, and the constable shall arrest such person and commit him to the jail of the county,

Div. X. Jurisdiction of Courts of Record in Criminal Cases.

there to remain forty-eight hours; and if the fine exceed ten dollars, then to remain in said jail twenty-four hours for every five dollars over and above the said ten dollars, and so on in proportion to the amount of said fine.

§ 9. *Appeals*.—The defendant may appeal from the judgment of the justice of the peace in criminal cases to the circuit court of the county, the appeal to be taken in the same time and manner, and upon the same conditions, and with like effect; and like proceedings may be had thereon as in civil cases, except that no damages shall be allowed, and except that in the county of Cook the appeal shall be to the criminal court of Cook county.

§ 10. *Duty of Justice on Appeal*.—When any defendant convicted of either of the said offenses appeals, it shall be the duty of the justice to return to the clerk of the court to which the appeal is taken, when he returns the papers in the case, the names of all material witnesses.

§ 11. *Defendant Guilty — Judgment Rendered*.—If upon such appeal the defendant shall be found guilty, judgment shall be rendered against both principal and surety in the appeal bond, for the amount of the fine assessed by the jury in said court, and all costs that may have accrued.

DIVISION X.

JURISDICTION OF COURTS OF RECORD IN CRIMINAL OFFENSES AND MANNER OF PROSECUTING THE SAME.

SECTION 1. *Jurisdiction of Circuit Courts*.—The circuit courts of the several counties, except of the county of Cook, shall have exclusive original jurisdiction of all criminal offenses, except as otherwise provided by law.

§ 2. *Of Criminal Court of Cook County*.—The criminal court of Cook county shall have exclusive original jurisdiction of all criminal offenses in the county of Cook, except such as is conferred upon justices of the peace, and appellate jurisdiction from justices of the peace.

§ 3. *Prosecution in Circuit Courts*.—All offenses cognizable in the said courts shall be prosecuted by indictment.

§ 4. *Local Jurisdiction*.—The local jurisdiction of all offenses, not otherwise provided for by law, shall be in the county where the offense was committed.

§ 5. *Offense on County Line*.—Where an offense shall be committed on a county line, or within one hundred rods of the same, it may be so alleged, and the trial may be in either county divided by such line; and where any offense shall be committed against the person of another, and the person committing the offense shall be in one county, and the person receiving the injury shall be in another county, the trial may be had in either of said counties.

§ 6. *Killing in one County and Death in another*.—If the party killing shall be in one county, and the party killed be in another county, at the time

Div. XI. Proceedings before Grand Jury.

the cause of death shall be administered or inflicted, or if it is doubtful in which of several counties the cause of death was administered or inflicted, the accused may be tried in either county.

§ 7. *In Homicide*.—If the cause of death is administered or inflicted in one county, and the party die within another county, or without the state, the accused shall be tried in the county where the cause of death was administered or inflicted.

§ 8. *Jurisdiction in Larceny*.—Where property is stolen in another state or country, and brought into this state, or is stolen in one county of this state, and carried into another, the jurisdiction shall be in any county into or through which the property may have passed, or where the same may be found.

§ 9. *Offense Committed on Navigable Water of the State*.—An offense committed on any of the navigable waters bordering on this state and within the jurisdiction of the state, may be alleged to have been committed and the offender may be tried in the county opposite which it was committed, or in any county through or into which the boat, raft or vessel (if committed on either) may pass or come in the course of the voyage, or in which the voyage may terminate.

§ 10. *Offense Commenced Without but Consummated Within the State*.—When the commission of an offense commenced without this state is consummated within this state, the offender shall be liable to punishment therefor in this state, though he was without the state at the time of the commission of the offense charged, if he consummated the offense within this state, through the intervention of any innocent or guilty agency, or any means proceeding directly or indirectly from himself; and in such case he may be tried and punished in the county where the offense was consummated.

§ 11. *Offenses Committed on Railroad Cars or Water-Craft*.—When any offense is committed in or upon any railroad car passing over any railroad in this state, or any water-craft navigating any of the waters within this state, and it cannot readily be determined in what county the offense was committed, the offense may be charged to have been committed, and the offender tried in any of the counties through or along or into which such railroad car or water-craft may pass or come, or can reasonably be determined to have been on or near the day when the offense was committed.

DIVISION XI.

PROCEEDINGS BEFORE GRAND JURY.—INDICTMENT.

SECTION 1. *Sittings of Jury*.—The grand jury, having been impaneled and instructed by the court, shall retire to their room to consider such matters as may be brought before them. The court shall designate an officer to attend upon their sessions.

Div. XI. Indictment Proceedings before Grand Jury.

§ 2. *Presentments.*—Grand juries shall present all offenses cognizable by the court at which they attend, and may appoint one of their number to take minutes of their proceedings, to be delivered to the prosecuting attorney, if the jury so direct.

§ 3. *May be Summoned After Adjournment.*—If they are dismissed before the court adjourns, they may be summoned again on any special occasion, at such time as the court directs.

§ 4. *Witnesses.*—In all complaints exhibited before the grand jury of any county, they shall hear the witnesses on behalf of the people only.

§ 5. *Evidence.*—The grand jury may find an indictment on the oath of one or more witnesses, except that in cases of treason or perjury, at least two witnesses to the same fact shall be deemed necessary, except where the fact is proved by some writing, or they may make presentment upon information of not less than two of their own body, unless the juror giving the information is sworn as a witness, in which case his evidence shall be considered the same as that of any other witness. In finding a bill of indictment, at least sixteen of the grand jury shall be present, and at least twelve of them shall agree to the finding.

§ 6. *Form of Indictment.*—Every indictment or accusation of the grand jury shall be deemed sufficiently technical and correct, which states the offense in the terms and language of the statutes creating the offense, or so plainly that the nature of the offense may be easily understood by the jury. The commencement of the indictment shall be in substance as follows:

“STATE OF ILLINOIS, } Of the term of the circuit court
 county. } ss. in the year of our Lord, 18...

“The grand jurors chosen, selected and sworn, in and for the county of, in the name and by the authority of the People of the State of Illinois, upon their oaths, present, etc.,” (*here insert the offense, and time and place of committing the same, with reasonable certainty.*)

§ 7. *Prosecutor Indorsed—Malicious Prosecution.*—No bill of indictment for false imprisonment, or willful and malicious mischief, shall be found a “true bill,” by any grand jury, unless a prosecutor is indorsed thereon by the foreman of the grand jury, with the consent of the prosecutor, except the same shall be found upon the information and knowledge of two or more of the grand jury, or upon the information of some public officer in the necessary discharge of his duty; in which case it shall be stated at the end of the indictment, how the same is found, and then no prosecutor shall be required; but in cases where the prosecutor is indorsed on the indictment, and the defendant shall be acquitted on trial, the petit jury acquitting such defendant shall find, in addition to the verdict of “not guilty,” whether the prosecutor had acted maliciously by instituting the prosecution or not; and whenever the petit jury shall return with a verdict of “not guilty,” that the prosecutor had acted maliciously in the premises, the court shall enter judg-

Div. XII. Arrest upon Indictment. - - - Admitting to Bail.

ment for costs against the prosecutor, including a fee of five dollars to the attorney general or state's attorney, and award execution for the same, as is done in civil cases: *Provided*, that nothing herein contained shall render the prosecutor incompetent to be a witness, either before a grand or petit jury.

§ 8. *Instrument Destroyed*.—When an instrument which is the subject of an indictment has been destroyed or withheld by the act or procurement of the defendant, and the fact of such destruction or withholding is alleged in the indictment and established on trial, the accused shall not be acquitted an account of any misdescription of the instrument so withheld or destroyed.

§ 9. *No Indictment Quashed for Want of Form*.—All exceptions which go merely to the form of an indictment, shall be made before trial, and no motion in arrest of judgment, or writ of error shall be sustained, for any matter not affecting the real merits of the offense charged in such indictment. No indictment shall be quashed for want of the words, "with force and arms," or of the occupation or place of residence of the accused, nor by reason of the disqualification of any grand juror.

§ 10. *Disclosures Improper*.—No grand juror or officer of the court, or other person shall disclose that an indictment for felony is found, or about to be found against any person not in custody or under recognizance, except by issuing process for his arrest, until he is arrested; nor shall any grand juror state how any member of the jury voted, or what opinion he expressed on any question before them; and the court in charging said jury shall impress upon their minds the provisions of this section. A violation of this section shall subject the offender to an attachment as for contempt of court, in which he may be fined not exceeding five hundred dollars.

DIVISION XII.

ARREST UPON INDICTMENT—ADMITTING TO BAIL.

SECTION 1. *Order Fixing Amount of Bail*.—When an indictment is found as a true bill, if the offense is bailable, the court shall make an order fixing the amount of bail to be required of the accused. When the court orders process against the accused returnable forthwith the amount of bail need not be fixed until the accused is brought into court.

§ 2. *Capias*.—The clerk of the court in which the indictment is found shall immediately issue process of *capias* for the apprehension of each person indicted, directed to the sheriff, coroner, or any constable of the county where such person then is, or is supposed to be. When deemed necessary, warrants may issue to different counties at the same time.

§ 3. *Amount of Bail Indorsed on Writ*.—When not otherwise ordered by the court, the clerk shall indorse on the process the amount of bail required by the order of the court, but when the court shall order the process

Div. XIII. Arraignment. - - - Trial.

returnable immediately, such indorsement shall not be made, but the *capias* shall require the accused to be arrested, and brought immediately to court.

§ 4. *Service and Return of Capias—Bail.*—The sheriff, or in case of his absence or inability, the coroner or some one of the constables of the county to which the *capias* is directed, shall arrest the person named in the warrant, and if the offense is bailable and the writ is not returnable forthwith, let him to bail, if sufficient bail is offered; or if the offense is not bailable, or sufficient bail is not offered, take his body to the jail of the county where the *capias* is returnable, and deliver him together with the *capias* to the keeper of the jail, there to remain until discharged in due course of law. If the process is returnable forthwith, the accused shall be immediately brought into court, when he shall be either committed, bailed or tried, as the court may direct.

§ 5. *Passing Through Other Counties.*—The officer having the custody of a prisoner may pass through any counties which lie in his route between the place of arrest and the county to which he is taking the prisoner, and may lodge the prisoner in any jail on his route for safe custody, for one night or more, as occasion may require.

§ 6. *Costs.*—The county where the indictment is found, shall pay to the officer his reasonable charges for his services in bringing an offender from another county.

§ 7. *Letting to Bail.*—The officer making the arrest shall let the accused to bail by his entering into recognizance in the form required by law, in the amount specified in the process, with one or more sufficient sureties to be approved by the officer.

DIVISION XIII.

ARRAIGNMENT—TRIAL—DISCHARGE.

SECTION 1. *Copy of Indictment.*—Every person charged with treason, murder or other felonious crime, shall be furnished, previous to his arraignment, with a copy of the indictment, and a list of the jurors and witnesses. In all other cases he shall, at his request or the request of his counsel, be furnished with a copy of the indictment and a list of the jurors and witnesses.

§ 2. *Counsel.*—Every person charged with crime shall be allowed counsel, and when he shall state upon oath that he is unable to procure counsel, the court shall assign him competent counsel, who shall conduct his defense. In all cases counsel shall have access to persons confined, and shall have the right to see and consult such persons in private.

§ 3. *Arraignment—Plea.*—Upon the arraignment of a prisoner, it shall be sufficient, without complying with any other form, to declare orally, by himself or his counsel, that he is not guilty; which plea shall be immediately

entered upon the minutes of the court by the clerk, and the mention of the arraignment and such plea shall constitute the issue between the people of the state and the prisoner; and if the clerk neglects to insert in the minutes the said arraignment and plea, it may and shall be done at any time by order of the court, and then the error or defect shall be cured.

§ 4. *Plea of Guilty Explained.*—In cases where the party pleads “guilty,” such plea shall not be entered until the court shall have fully explained to the accused the consequences of entering such plea; after which, if the party persist in pleading “guilty,” such plea shall be received and recorded, and the court shall proceed to render judgment and execution thereon as if he had been found guilty by a jury. In all cases where the court possesses any discretion as to the extent of the punishment, it shall be the duty of the court to examine witnesses as to the aggravation and mitigation of the offense.

§ 5. *Standing Mute.*—In all cases where the party on being arraigned obstinately stands mute, or refuses to plead, the court shall order the plea of “not guilty” to be entered on the minutes, and the trial, judgment and execution shall proceed in the same manner as it would have done if the party had pleaded “not guilty.”

§ 6. *Disqualifications Removed.*—No person shall be disqualified as a witness in any criminal case or proceeding by reason of his interest in the event of the same, as a party or otherwise, or by reason of his having been convicted of any crime; but such interest or conviction may be shown for the purpose of affecting his credibility: *Provided, however,* that a defendant in any criminal case or proceeding shall only at his own request be deemed a competent witness, and his neglect to testify shall not create any presumption against him, nor shall the court permit any reference or comment to be made to or upon such neglect.

§ 7. *Subpœnas.*—It shall be the duty of the clerk of the court to issue subpœnas, either on the part of the people or of the accused, directed to the sheriff, coroner, or any constable of any county of this state. And every witness who shall be duly subpoenaed, and shall neglect or refuse to attend any court, pursuant to the requisitions of such subpoena, shall be proceeded against and punished for contempt of the court. And attachments against witnesses who live in a different county from that where such subpoena is returnable, may be served in the same manner as *capiases* are directed to be served, out of the county from which they issue.

§ 8. *Mode of Procedure.*—All trials for criminal offenses shall be conducted according to the course of the common law, except when this act points out a different mode, and the rules of evidence of the common law shall also be binding upon all courts and juries in criminal cases except as otherwise provided by law.

§ 9. *Certain Privileges Abolished.*—The benefit of clergy, appeals of felony, and trials by battle are forever abolished.

§ 10. *Trial de Mediatate Lingua.*—In no case shall the right to a trial by jury *de mediatate lingua* be allowed in criminal prosecutions.

§ 11. *Jurors Judges of Law and Fact.*—Juries in all criminal cases shall be judges of the law and the fact.

§ 12. *Challenges.*—Every person arraigned for any crime punishable with death or imprisonment in the penitentiary for life shall be admitted on his trial to a peremptory challenge of twenty jurors, and no more; and every person arraigned for any offense that may be punished by imprisonment for a term exceeding eighteen months, shall be admitted to a peremptory challenge of ten jurors; and in all other criminal trials, the defendant shall be allowed a peremptory challenge of six jurors. The attorney prosecuting on behalf of the people shall be admitted to a peremptory challenge of the same number of jurors that the accused is entitled to.

§ 13. *Challenges in Trial for Murder.*—In trials for murder it shall be a cause for challenge of any juror who shall, on being examined, state that he has conscientious scruples against capital punishment, or that he is opposed to the same.

§ 14. *Prolongation of Session.*—The court in which a trial for a criminal offense is pending may continue in session until the verdict is rendered and judgment entered, notwithstanding the judge may be required by law to hold court in another county before the conclusion of such trial.

§ 15. *Officer Sworn to Attend Jury.*—When the jury retire to consider of their verdict in any criminal case, a constable or other officer shall be sworn or affirmed to attend the jury to some private and convenient place, and to the best of his ability keep them together without meat or drink (water excepted), unless by leave of the court, until they shall have agreed upon their verdict, nor suffer others to speak to them, and that when they shall have agreed on their verdict, he will return them into court: *Provided*, in cases of misdemeanor only, if the prosecutor for the people and the person on trial, by himself or counsel, shall agree, which agreement shall be entered upon the minutes of the court, to dispense with the attendance of an officer upon the jury, or that the jury, when they have agreed upon their verdict, may write and seal the same, and after delivering the same to the clerk, may separate, it shall be lawful for the court to carry into effect any such agreement, and receive any such verdict so delivered to the clerk as the lawful verdict of such jury.

§ 16. *Penalty.*—If any officer sworn to attend upon a jury shall knowingly violate his oath or affirmation, or shall so negligently perform his duties that the jury shall separate without leave of the court, or obtain food or drink (except water), or if any person not belonging to the jury shall hold conversation with any of the jury, every person and officer so offending shall be punished for a contempt of the court by fine or imprisonment, or both, in the discretion of the court.

§ 17. *Exceptions.*—Exceptions may be taken in criminal cases, and bills

of exceptions shall be signed and sealed by the judge, and entered of record, and error may be assigned thereon by the defendant, the same as in civil cases: *Provided*, that in no criminal case shall the people be allowed an appeal, writ of error or new trial.

§ 18. *Discharged for Want of Prosecution.*—Any person committed for a criminal or supposed criminal matter, and not admitted to bail and not tried at or before the second term of the court having jurisdiction of the offense, shall be set at liberty by the court, unless the delay shall happen on the application of the prisoner. If such court, at the second term, shall be satisfied that due exertions have been made to procure the evidence for and on behalf of the people, and that there are reasonable grounds to believe that such evidence may be procured at the third term, it shall have power to continue such case till the third term. If any such prisoner shall have been admitted to bail for a crime other than a capital offense, the court may continue the trial of said cause to a third term, if it shall appear by oath or affirmation that the witnesses for the people of the state are absent, such witnesses being mentioned by name, and the court shown wherein their testimony is material.

DIVISION XIV.

JUDGMENT AND EXECUTION THEREOF.

SECTION 1. *Death Penalty—Manner of inflicting.*—The manner of inflicting the punishment of death shall be by hanging the person convicted by the neck until dead, at such time as the court shall direct, not less than fifteen nor more than twenty-five days from the time sentence is pronounced: *Provided*, the day set shall not occur before the tenth day of the term of the supreme court occurring (in either of the grand divisions) next after the pronouncing of the judgment, and, *Provided*, that for good cause the court or governor may prolong the time. At the expiration of the time so prolonged, the judgment shall be executed the same as if that were the time fixed by the judgment for the execution thereof.

§ 2. *Place of Inflicting.*—Whenever any person shall be condemned to suffer death by hanging, for any crime of which such person shall have been convicted in any court of this state, such punishment shall be inflicted within the walls of the prison of the county in which such conviction shall have taken place, or within a yard or inclosure adjoining such prison.

§ 3. *Duty of Sheriff at Execution.*—It shall be the duty of the sheriff, or the deputy sheriff of the county, to be present at such execution, and, by at least three days' previous notice, to invite the presence of the judges, prosecuting attorney, and clerks of the courts of said county, together with two physicians and twelve reputable citizens, to be selected by said sheriff or his deputy. And the said sheriff or deputy shall, at the request of the crim-

Div. XIV. Punishment determined by Court or Jury.

inal, permit such ministers of the gospel, not exceeding three, as said criminal shall name, and any of the immediate relatives of said criminal, to be present at such execution; and also such officers of the prison, deputies and constables as shall by him be deemed expedient to have present; but no other persons than those herein mentioned shall be permitted to be present at such execution; nor shall any person, not a relative of the criminal, under the age of twenty-one years, be allowed to witness the same.

§ 4. *Certificate of Execution.*—The sheriff or his deputy, or the judges attending such execution, shall prepare and sign, officially, a certificate, setting forth the time and place thereof, and that such criminal was then and there executed, in conformity to the sentence of the court and the provisions of this act; and shall procure to said certificate the signatures of the other public officers and persons, not relatives of the criminal, who witnessed such execution; which certificate shall be filed with the clerk of the court where the conviction of such criminal was had.

§ 5. *Disposition of Body.*—The court may order, on the application of any respectable surgeon or surgeons, that the body of the convict shall, after death, be delivered to such surgeon or surgeons for dissection, unless the same be objected to by some relative of the convict.

§ 6. *Penalties Determined by Jury—Penitentiary.*—In all cases where the punishment shall be confinement in the penitentiary, if the case is tried by a jury, the jury shall say in their verdict for what time the offender shall be confined, and the court, in pronouncing sentence, shall designate what portion of time the offender shall be confined to solitary imprisonment, and what portion to hard labor.

§ 7. *Fines Fixed by Jury.*—When a fine is also to be inflicted, the jury shall fix the amount of the fine. When either fine or imprisonment in the penitentiary may be inflicted, the jury shall determine which, and the time of confinement or the amount of the fine.

§ 8. *Penalties to be Fixed by the Court.*—When the punishment may be either by imprisonment in the penitentiary, or by confinement in the county jail, with or without fine, if the jury will not inflict the punishment of imprisonment in the penitentiary, they shall simply find the accused guilty, and the court shall fix the time of confinement in the jail, or fine, or both, as the case may require.

§ 9. *In Other Cases, by the Court.*—When the accused pleads guilty, and in all other cases not otherwise provided for, the court shall fix the time of confinement, or the amount of the fine, or both, as the case may require.

§ 10. *Workhouse.*—Any person convicted in a court of this state, having jurisdiction of any crime or misdemeanor, the punishment of which is confinement in the county jail, may be sentenced by the court in which such conviction is had, to labor for the benefit of the county, during the term of such imprisonment, in the workhouse, house of correction or other place provided for that purpose by the county or city authorities. Nothing con-

Div. XIV. Offenders, under Age. - - - Costs. - - - Judgment, a Lien.

tained in this act shall be construed to prevent the imprisonment of any convict in the Reform School at Pontiac, as provided by law.

§ 11. *Punishment of Offenders Under Eighteen.*—Persons under the age of eighteen years shall not be punished by imprisonment in the penitentiary for any offense except murder, manslaughter, rape, robbery, burglary or arson; in all other cases where a penitentiary punishment is or shall be provided, such person under the age of eighteen years and over the age of sixteen years, shall be punished by confinement in the county jail for a term not exceeding eighteen months, at the discretion of the court.

§ 12. *Convicts under Control of County Board.*—Nothing contained in this act shall prevent the county board taking such control of convicts committed to the county jail, and their transfer to work-houses, houses of correction or other places of employment, as is provided by law: *Provided*, that no such transfer shall be made of any convict without the order of the court in which he was convicted, if in session, or of the judge thereof in vacation, and in all cases a report of such transfer shall be made to the court, as soon as may be after the transfer, and entered of record.

§ 13. *Judgment for Costs.*—When any person is convicted of an offense under any statute, or at common law, the court shall give judgment that the offender pay the costs of the prosecution.

§ 14. *Commitment to Enforce Payment of Costs and Fines.*—When a fine is inflicted, the court may order, as a part of the judgment, that the offender be committed to jail, there to remain until the fine and costs are fully paid or he is discharged according to law.

§ 15. *Judgment a Lien on Property, Real and Personal.*—The property, real and personal, of every person who shall be convicted of any offense, shall be bound, and a lien is hereby created on the property, both real and personal, of every such offender, not exempt from execution or attachment, from the time of finding the indictment, at least so far as will be sufficient to pay the fine and costs of prosecution. The clerk of the court in which the conviction is had, shall, at the end of the term, issue an execution for every fine that shall have been imposed during the term, and remains unpaid, and all costs of conviction remaining unpaid; in which execution shall be stated the day on which the arrest was made, or indictment found, as the case may be. The execution may be directed to the proper officer of any county in this state. The officer to whom such execution is delivered shall levy the same upon all the estate, real and personal, of the defendant (not exempt from execution), possessed by him on the day of the arrest, or finding the indictment, as stated in the execution, and any such property subsequently acquired, and the property so levied upon shall be advertised and sold in the same manner as in civil cases, with the like rights to all parties that may be interested therein. It shall be no objection to the selling of any property under such execution, that the body of the defendant is in custody for the fine or costs, or both.

Div. XIV. Acknowledgment of Judgment. - - - Powers of Sheriff.

§ 16. *Acknowledgment of Judgment.*—If the person convicted, together with one or more sufficient sureties, will acknowledge a judgment in favor of the People of the State of Illinois, for the amount of the fine and costs, or the costs only, when no fine is imposed, the court shall cause the same to be entered in full satisfaction of the fine and costs, or costs only, with a direction that if the judgment is not paid within five months from the time of entering the same, execution shall be issued thereon, and the defendant shall, upon the entering of such judgment, be discharged from imprisonment on account of such fine or costs, but he shall not thereby be discharged from any imprisonment which is made a part of his punishment, not dependent upon the payment of the fine or costs. Such judgment shall be a lien upon all the real estate of the persons acknowledging the same, from the date of its entry. If the judgment so entered is not paid within five months from the entry, it may be enforced by execution, in the same manner as other judgments at law. Such judgment may be acknowledged in vacation before the clerk of the court, and he may, in such case, approve the surety, and a judgment so acknowledged shall have the same force and effect from the date of the entry as if entered in term time in open court.

§ 17. *Discharge of Pauper.*—Whenever it shall be made satisfactorily to appear to the court, after all legal means have been exhausted, that any person who is confined in jail for any fine or costs of prosecution, for any criminal offense, hath no estate wherewith to pay such fine and costs, or costs only, it shall be the duty of the said court to discharge such person from further imprisonment for such fine and costs, which discharge shall operate as a complete release of such fine and costs: *Provided*, that nothing herein shall authorize any person to be discharged from imprisonment before the expiration of the time for which he may be sentenced to be imprisoned as part of his punishment.

§ 18. *Convict conveyed to Penitentiary.*—When a convict shall be sentenced to imprisonment in the penitentiary, the clerk of the court shall forthwith deliver a certified copy of the judgment to the sheriff or other proper officer of the county, who shall without delay convey the convict to the penitentiary of the state, and deliver him to the warden thereof.

§ 19. *Powers of Sheriff while conveying Convict, etc.*—The sheriff, while conveying the convict to the penitentiary, shall have the same power to require the aid of any citizen of this state in securing such convict, or retaking him if he shall escape, as he would have in his own county, and any person who shall refuse or neglect to assist such sheriff when required, shall be liable to the same penalty as in any other case of neglect or refusal to join a *posse comitatus* when lawfully required.

DIVISION XV.

WRITS OF ERROR—NEW TRIAL.

SECTION 1. *Writs of Error in Capital Cases.*—In any prosecution by indictment for a capital offense, when the sentence is death, the party aggrieved by manifest and material error, appearing of record, may be relieved by writ of error, in the following manner, to-wit:

First—He shall obtain a certified copy of the record from the clerk, and a certificate from the judge who tried the cause, or from the prosecuting officer on the trial, that he is of opinion that such record contains a full and true history of the proceedings on the trial.

Second—He shall present such transcript and certificate with an assignment of the errors relied upon to the supreme court, if in session, or to one of the judges thereof in vacation.

Third—If, after inspecting such transcript, the court or judge is of opinion that there is reasonable cause for allowing a writ of error, and shall also be of the opinion that there is a reasonable doubt as to the guilt of the defendant, it shall be granted by indorsement on the back of such transcript, with a direction that the same shall be a *supersedeas*.

Fourth—Upon the filing of such transcript and order, the clerk of the supreme court shall issue a *supersedeas* to stay the execution of the sentence of death until the further order of the court, but the prisoner shall not be discharged from jail.

§ 2. *When Affirmed—Sentence.*—If the judgment is affirmed, the supreme court shall, by order, fix the time when the original sentence of death shall be executed, a copy of which order shall be sufficient authority to the sheriff for the execution of the prisoner at the time therein specified.

§ 3. *Writs of Error in other Cases.*—Writs of error in all criminal cases, where sentence is not death, shall be considered as writs of right, and issued of course.

§ 4. *Supersedeas in other Cases.*—When a *supersedeas* is desired, a transcript of the record, with a certificate and assignment of errors, must be presented to the supreme court, if in session, or to one of the judges thereof in vacation, in like manner as in cases where the sentence is death.

§ 5. *Issued, How.*—If, after inspecting the transcript, the court or judge is of opinion that there is reasonable cause for allowing a writ of error, and shall also be of the opinion that there is a reasonable doubt as to the guilt of the defendant, it shall be granted, by indorsement on the back of the transcript, with a direction that the same be made a *supersedeas*, and *supersedeas* shall issue in like manner and with like effect as in cases where the sentence is death.

§ 6. *Letting to Bail.*—When the court or judge is of opinion that the party obtaining such writ of error ought to be bailed until the determination

of the writ, and he is at the time in custody, the said court or judge may make an order to admit such prisoner to bail, upon his entering into a recognizance to the People of the State of Illinois, in such sum, and with such security, as said court or judge shall prescribe, conditioned that the prisoner will appear at the next term of the court in which his trial took place, and at each subsequent term of said court, on the first days thereof, until the determination of such writ of error, and will not at any of the terms of said court depart the court without leave, and that in case the judgment is affirmed he will surrender himself to the sheriff, or warden, or other officer from whose custody he is bailed.

§ 7. *Recognizance taken by Sheriff or Warden—How Returnable.*—If the prisoner is in the custody of the sheriff, he shall take the recognizance; if in the custody of the warden of the penitentiary, he shall take the recognizance. In either case the recognizance shall be returned to the next term of the court in which the prisoner was sentenced, and there entered of record, and such proceedings may be had thereon, in case of breach of the conditions thereof, as in other cases of recognizances.

§ 8. *Judgment Affirmed—Proceedings thereon.*—If the judgment is affirmed, the supreme court shall direct the court in which the original sentence was rendered to carry the same into effect, and shall give judgment against the plaintiff in error for costs, and execution may issue therefor, from the supreme court.

§ 9. *Surrender of the Prisoner by Sureties on Judgment Affirmed.*—When judgment is affirmed, if the prisoner was bailed from the custody of the sheriff, he shall be surrendered to the sheriff, who shall proceed to execute the judgment of the court; or, if bailed from the custody of the warden, he shall be surrendered to such warden, to be dealt with according to the judgment of the court, and the warden receiving him shall immediately certify to the clerk of the court to which the recognizance is returned the fact of such surrender, which certificate shall be sufficient evidence of the compliance of the condition of the bond.

§ 10. *Time of Service.*—When the prisoner has been committed to the penitentiary in pursuance of a sentence of imprisonment therein, or has been committed to the county jail pursuant to a sentence of confinement therein, and the judgment is affirmed, the time of service under the sentence of such prisoner shall commence to run from the time of such commitment, notwithstanding a *supersedeas* may have been granted: *Provided*, if any such prisoner is admitted to bail after such commitment, the time during which he is out upon bail shall be excluded from the computation of his time of service.

§ 11. *Returning Prisoner for Trial.*—In case of the reversal of any judgment upon which any person has been committed to the penitentiary, and the granting of a new trial by the supreme court, it shall be the duty of the warden of the penitentiary, upon receiving a certified copy of such

judgment of the supreme court, to deliver the person so committed to the custody of the sheriff of the county where such new trial is to be had, and of such sheriff to take and reconvey such person to the jail of his county, and for such services the sheriff shall be allowed and paid like fees as in the case of commitments to the penitentiary.

DIVORCE.

AN ACT TO REVISE THE LAW IN RELATION TO DIVORCE.

Approved March 10, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That in every case in which a marriage has been, or hereafter may be contracted and solemnized between any two persons, and it shall be adjudged, in the manner hereinafter provided, that either party at the time of such marriage was, and continues to be naturally impotent; or that he or she had a wife or husband living at the time of such marriage; or that either party has committed adultery subsequently to the marriage; or has willfully deserted or absented himself or herself from the husband or wife, without any reasonable cause, for the space of two years; or has been guilty of habitual drunkenness for the space of two years; or has attempted the life of the other by poison or other means showing malice; or has been guilty of extreme and repeated cruelty; or has been convicted of felony or other infamous crime, it shall be lawful for the injured party to obtain a divorce and dissolution of such marriage contract.

§ 2. No person shall be entitled to a divorce in pursuance of the provisions of this act, who has not resided in the state one whole year next before filing his or her bill or petition, unless the offense or injury complained of was committed within this state, or whilst one or both of the parties resided in this state.

§ 3. No divorce shall, in anywise, affect the legitimacy of the children of such marriage, except in cases where the marriage shall be declared void on the grounds of a prior marriage.

§ 4. The circuit courts of the respective counties and the superior court of Cook county shall have jurisdiction in all cases of divorce and alimony allowed by this act.

§ 5. The proceedings shall be had in the county where the complainant resides, but process may be directed to any county in the state.

§ 6. The process, practice and proceedings under this act shall be the same as in other cases in chancery, except as herein otherwise provided, and except that the answer of the defendant need not be on oath.

§ 7. When the defendant appears and denies the charges in the com-

plainant's bill for a divorce, either party shall have the right to have the cause tried by a jury.

§ 8. If the bill is taken as confessed, the court shall proceed to hear the cause by examination of witnesses in open court, and in no case of default shall the court grant a divorce, unless the judge is satisfied that all proper means have been taken to notify the defendant of the pendency of the suit and that the cause of divorce has been fully proven by reliable witnesses. Whenever the judge is satisfied that the interests of the defendant require it, the court may order such additional notice as equity may seem to require.

§ 9. No confession of the defendant shall be taken as evidence unless the court or jury shall be satisfied that such confession was made in sincerity and without fraud or collusion to enable the complainant to obtain a divorce.

§ 10. If it shall appear, to the satisfaction of the court, that the injury complained of was occasioned by collusion of the parties, or done with the assent of the complainant for the purpose of obtaining a divorce, or that the complainant was consenting thereto, or that both parties have been guilty of adultery, when adultery is the ground of complaint, then no divorce shall be decreed.

§ 11. A marriage which may have been celebrated or had in any foreign state or country, may be proved by the acknowledgment of the parties, their cohabitation, and other circumstantial testimony.

§ 12. The court may prohibit the husband from interposing any restraint on the personal liberty of the wife during the pendency of the suit.

§ 13. The court may, on the application of either party, make such order concerning the custody and care of the minor children of the parties during the pendency of the suit, as may be deemed expedient, and for the benefit of the children.

§ 14. Any woman suing for a divorce, who shall make it appear satisfactorily to the court that she is poor, and unable to pay the expenses of such suit, shall be allowed by the court to prosecute her complaint without costs; and in such cases, no fees shall be charged by the officers of the court.

§ 15. In all cases of divorce, the court may require the husband to pay to the wife, or pay into court for her use during the pendency of the suit, such sum or sums of money as may enable her to maintain or defend the suit; and in every suit for a divorce, the wife, when it is just and equitable, shall be entitled to alimony during the pendency of the suit. And in case of appeal or writ of error by the husband, the court in which the decree or order is rendered, may grant and enforce the payment of such money for her defense, and such equitable alimony during the pendency of the appeal or writ of error, as to such court shall seem reasonable and proper.

§ 16. The court, upon granting to a woman a divorce from the bonds of matrimony may allow her to resume her maiden name or the name of any former husband.

§ 17. Whenever a divorce is granted, if it shall appear to the court that

Dower.

either party holds the title to property equitably belonging to the other, the court may compel conveyance thereof to be made to the party entitled to the same, upon such terms as it shall deem equitable.

§ 18. When a divorce shall be decreed, the court may make such order touching the alimony and maintenance of the wife, the care, custody and support of the children, or any of them, as, from the circumstances of the parties and the nature of the case, shall be fit, reasonable and just; and in case the wife be complainant, to order the defendant to give reasonable security for such alimony and maintenance, or may enforce the payment of such alimony and maintenance in any other manner consistent with the rules and practice of the court. And the court may, on application, from time to time, make such alterations in the allowance of alimony and maintenance, and the care, custody and support of the children, as shall appear reasonable and proper.

§ 19. When a divorce is granted to a woman who shall, in good faith, have intermarried with a man having at the time of such marriage another wife or wives living, the court may, nevertheless, allow the complainant alimony and maintenance the same as in other cases of divorce; but no such allowance shall be made as will be inconsistent with the rights of such other wife or wives, which shall first be ascertained by the court before the granting of such alimony or maintenance.

§ 20. Whenever, in any case of divorce, a decree for alimony or maintenance is made a lien on any real estate to secure the payment of any money to become due by installments, and a sale of such real estate shall become necessary to satisfy any of such installments, the property shall be sold subject to the lien of the installments not then due, unless the court shall, at the time, direct otherwise, and subsequent sales may, from time to time, be made to enforce such lien as the installments may become due, until all installments are paid.

DOWER.

AN ACT TO REVISE THE LAW IN RELATION TO DOWER.

Approved March 4, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That the estate of curtesy is hereby abolished, and the surviving husband or wife shall be endowed of the third part of all the lands whereof the deceased husband or wife was seized of an estate of inheritance, at any time during the marriage, unless the same shall have been relinquished in legal form. Equitable estates shall be subject to such dower, and all real estate of every description contracted for by the deceased*

Husband Entitled to. - - - Conveyance. - - - Mortgaged Land.

husband or wife, in his or her life time, the title to which may be completed after his or her decease.

§ 2. The surviving husband or wife of an alien shall be entitled to dower the same as if such alien had been a native born citizen of the United States.

§ 3. Where a person seized of an estate of inheritance in land, shall have executed a mortgage of such estate before marriage, the surviving husband or wife of such person shall, nevertheless, be entitled to dower out of the lands mortgaged, as against every person, except the mortgagee, and those claiming under him.

§ 4. Where a husband or wife shall purchase lands during coverture, and shall mortgage such lands to secure the payment of the purchase money thereof, the surviving wife or husband shall not be entitled to dower in such lands, as against the mortgagee or those claiming under him, although she or he shall not have united in such mortgage; but shall be entitled to dower as against all other persons.

§ 5. When, in either of the cases specified in the two preceding sections, the mortgagee or those claiming under him shall, after the death of such husband or wife, cause the land mortgaged to be sold, either under a power contained in the mortgage, or by virtue of the judgment or decree of a court, and any surplus shall remain, after the payment of the moneys due on such mortgage, and the costs and charges of sale, such survivor shall be entitled to the interest or income of one-third part of such surplus, for life, as dower.

§ 6. No person shall be endowed of lands conveyed to his or her wife or husband by way of mortgage, unless such wife or husband have acquired an absolute estate during the marriage.

§ 7. When an estate in land shall be conveyed to an intended husband and wife, or to either of them, or to any person in trust for such intended husband and wife, or either of them, for the purpose of creating a jointure in favor of either of them with his or her assent, to be taken in lieu of dower, such jointure shall bar any right or claim for dower by the party jointured in any lands of the other.

§ 8. The assent required in the preceding section shall be evinced by the party, if of full age, becoming a party to the conveyance by which such jointure is settled, or, if a minor, by joining with the father or guardian in such conveyance.

§ 9. If before marriage, but without such assent, or if after marriage, land shall be given or assured for the jointure of a wife or husband in lieu of dower, such wife or husband may elect whether to take such jointure, or to be endowed as herein provided, but shall not be entitled to both.

§ 10. Any devise of land, or any estate therein, or any other provision made by the will of a deceased husband or wife for a surviving wife or husband shall, unless otherwise expressed in the will, bar the dower of such

Dower. - - - Election. - - - Renunciation. - - - Divorced.

survivor in the lands of the deceased, unless such survivor shall elect to and does renounce the benefit of such devise or other provision, in which case he or she shall be entitled to dower in the lands and to one-third of the personal estate after the payment of all debts.

§ 11. Any one entitled to an election under either of the two preceding sections shall be deemed to have elected to take such jointure, devise or other provision, unless, within one year after letters testamentary or of administration are issued, he or she shall deliver or transmit to the county court of the proper county a written renunciation of such jointure, devise or other provision.

§ 12. If a husband or wife die testate, leaving no child or descendants of a child, the surviving husband or wife may, if he or she elect, have, in lieu of dower in the estate of which the deceased husband or wife died seized, whether the right to such dower has accrued by renunciation as hereinbefore provided, or otherwise, and of any share of the personal estate which he or she may be entitled to take with such dower, absolutely, and in his or her own right, one-half of all the real and personal estate which shall remain after the payment of all just debts and claims against the estate of the deceased husband or wife. The election herein provided for may be made whether dower has been assigned or not, and at any time before or within two months after notification to the survivor of the payment of debts and claims, and not afterwards.

§ 13. The renunciation in the preceding sections required may be in the following form, to-wit:

"I, A B, surviving wife (or husband) of C D, late of the county of, and State of, deceased, do hereby renounce and quit all claim to the benefit of any jointure given or assured to me in lieu of dower, (or 'any devise or other provision made to me by the last will and testament of the said C D,' or otherwise, as the case may be,) and I do elect to take in lieu thereof my dower and legal share in the estate of the said C D, (or otherwise, as the case may require.)"

Which renunciation shall be filed in the office of the clerk of the county court, and entered by said clerk at large upon the records of the court, and shall operate as a complete bar to any claim which such survivor may afterward set up to any jointure, devise, testamentary provision or dower thus renounced.

§ 14. If any husband or wife is divorced for the fault or misconduct of the other, except where the marriage was void from the beginning, he or she shall not thereby lose dower nor the benefit of any such jointure, but if such divorce shall be for his or her own fault or misconduct, such dower or jointure, and any estate granted by the laws of this state, in the real or personal estate of the other, shall be forfeited.

§ 15. If a husband or wife voluntarily leave the other and commit adul-

Judgments not to Affect - - - Heir-at-Law to Assign. - - - Petition for.

tery, he or she shall be forever barred of dower and of the benefit of any such jointure, unless they are afterwards reconciled and dwell together.

§ 16. No judgment or decree confessed or recovered against a husband or wife, and no laches, default, covin, forfeiture or crime of either, no deed or conveyance of either, without the assent of the other, evinced by the acknowledgment thereof, as required by law, shall prejudice the right of the other to dower or jointure, or preclude the other from the recovery thereof, if otherwise entitled thereto.

§ 17. If a husband or wife seized of an estate of inheritance in lands, exchange it for other lands, the surviving husband or wife shall not have dower of both, but shall make election as hereinbefore provided, to be endowed of the lands given, or of those taken in exchange; and if such election be not evinced, by the commencement of proceedings for the recovery and assignment of dower of the lands given in exchange, within one year after the death of such husband or wife, the survivor shall be deemed to have elected to take dower of the lands received in exchange.

§ 18. It shall be the duty of the heir-at-law, or other person, having the next estate of inheritance or freehold in any lands or estate of which any person is entitled to dower, to lay off and assign such dower as soon as practicable after the death of the husband or wife of such person.

§ 19. If such heir or other person shall not within one month next after such death, satisfactorily assign and set over the surviving husband or wife, dower in and to all lands, tenements and hereditaments whereof by law he or she is or may be dowable, such survivor may sue for and recover the same by petition in chancery, as hereinafter prescribed, against such heir or other person, or any tenant in possession, or any other person claiming right or possession in said estate.

§ 20. The petition may be filed in any court of record of competent jurisdiction in the county where the estate or some part thereof is situated.

§ 21. Infants may petition by guardian or next friend, and other persons under guardianship by their conservators. When an infant or person under guardianship is a defendant, he may appear by guardian or conservator, or the court may appoint a guardian *ad litem* for such person, and compel the person so appointed to act.

§ 22. The petition shall set forth the nature of the claim, and particularly specify the premises in which dower is claimed, and shall set forth the interests of all parties interested therein so far as the same are known to the petitioner, and shall pray for the assignment of such dower.

§ 23. Every person having any interest in the premises, whether in possession or otherwise, and who is not a petitioner, shall be made a defendant to such petition.

§ 24. When there are any persons interested in the premises whose names are unknown, or the share or quantity of interest of any of the parties is unknown to the petitioner, or where such share or interest shall be uncer-

Petition for Dower. - - - Parties made Defendant. - - - How Heard.

tain or contingent, or the ownership of the inheritance shall depend upon an executory devise, or the remainder shall be contingent, so that such parties cannot be named, the same shall be so stated in the petition.

§ 25. All persons interested in the premises in which dower is claimed, whose names are unknown, may be made parties to such petition by the name and description of unknown owners of the premises, or as the unknown heirs of any person who may have been interested in the same.

§ 26. The defendants to any such petition shall be summoned in the same manner as defendants to suits in chancery.

§ 27. Unknown owners, or parties in interest, of the premises, and the unknown heirs of any such persons, may be notified by advertisement as in cases in chancery.

§ 28. When it shall appear by affidavit filed, as in cases in chancery, that any defendant resides or has gone out of the state, or upon due inquiry cannot be found, or is concealed within this state so that process cannot be served on him, and the affiant shall state the place of residence of such defendant, if known, or that upon diligent inquiry his place of residence cannot be ascertained, he may be notified in the same manner as in such case in chancery.

§ 29. Non-resident defendants may be served by a copy of the petition in the same manner that such defendants in chancery may be served by a copy of the bill of complaint, and the service thereof may be proved as in such case provided.

§ 30. Any defendant who is not summoned, served with a copy of the petition, or shall not receive the notice required to be sent him by mail, or the heirs, devisees, executors, administrators and other legal representatives of such person may appear and answer the petition within the same time and upon the same conditions, and with like effect as in other cases in chancery.

§ 31. The petitioner may in his petition require the defendants or any of them to answer his petition on oath, in which case the answer shall have the same effect as an answer in chancery under oath.

§ 32. During the pendency of any such suit or proceeding any person claiming to be interested in the premises may appear and answer the petition, and assert his or her rights, by way of interpleader; and the court shall decide upon the rights of persons appearing as aforesaid, as though they had been made parties in the first instance.

§ 33. Petitions for the recovery and assignment of dower shall be heard and determined by the court upon the petition, answer, replication, exhibits and other testimony, without the necessity of formal pleading. The court may direct an issue or issues to be tried by a jury, as in other cases in equity.

§ 34. When the court adjudges that the one entitled thereto recover dower, it shall be so entered of record, together with a description of the land out of which he or she is to be so endowed, and the court shall thereupon

Commissioners to Set Off. - - - The Homestead. - - - Rents, etc., in Lieu.

appoint three commissioners not connected with any of the parties either by consanguinity or affinity, and entirely disinterested, each of whom shall take the following oath :

" I do solemnly swear that I will fairly and impartially allot and set off to A B, surviving wife (*or husband*) of C D, her (*or his*) dower out of the lands and tenements described in the order of the court for that purpose, if the same can be done consistently with the interests of the estate, according to the best of my ability, so help me God."

§ 35. The commissioners shall go upon the premises, and if the same are susceptible of division, without manifest prejudice to the parties in interest, shall set off and allot to the person entitled thereto his or her dower, by metes and bounds, according to quality and quantity, of all the premises described in the order of the court.

§ 36. The dower need not be assigned in each tract separately, but may be allotted in a body out of one or more of the tracts of land, when the same can be done without prejudice to the interests of any person interested in the premises.

§ 37. The surviving husband or wife shall have the homestead or dwelling house, if he or she desire, and such allotment shall not effect his or her estate of homestead therein, but if the dower is allotted out of other lands the acceptance of such allotment shall be a waiver and release of the estate of homestead of the person entitled to dower, and his or her children, unless it shall be otherwise ordered by the court.

§ 38. The commissioners shall make report in writing, signed by at least two of them, showing what they have done, and if they have made a division, describing the premises allotted by metes and bounds or other proper description ; and the allotment so made, if approved by the court, shall vest in the person entitled thereto an estate in the lands and tenements set off and allotted to him or her for and during his or her natural life ; and the court shall forthwith cause such person to have possession by writ directed to the sheriff for that purpose.

§ 39. When the estate out of which dower is to be assigned consists of a mill or other tenement which cannot be divided without damage to the whole, and in all cases where the estate cannot be divided without great injury thereto, the dower may be assigned of the rents, issues and profits thereof, to be had and received by the person entitled thereto as tenant in common with the owners of the estate, or a jury may be impaneled to inquire of the yearly value of the dower therein, who shall assess the same accordingly, and the court shall thereupon enter a decree that there be paid to such person as an allowance in lieu of dower, on a day therein named, the sum so assessed as the yearly value of such dower, and the like sum on the same day of each year thereafter during his or her natural life, and may make the same a lien on any real estate of the party against whom such decree is rendered, or cause the same to be otherwise secured.

Dower. - - - Damages. - - - Real Estate of Deceased Persons. - - - Repeal.

§ 40. Whenever any such decree is made a lien on any real estate, as provided in the preceding section, and a sale of such real estate shall become necessary to satisfy any such installment, the property shall be sold subject to the lien of the installments not then due, unless the court shall at the time direct otherwise, and subsequent sales may, from time to time, be made to enforce such lien as the installments may become due, until all the installments are paid.

§ 41. Whenever, in any action brought for the purpose, a surviving husband or wife recovers dower in any lands, he or she shall be entitled to recover reasonable damages from the time of his or her demand, and a refusal to assign reasonable dower, which may be assessed by the court, or a jury, if required, may be impaneled for that purpose, and execution may issue therefor.

§ 42. The commissioners shall, at all times, be subject to the direction of the court; and any one or more of them may, before the final confirmation of the report, be removed, and others appointed in their stead.

§ 43. Heirs, or, if under age, their guardians, or any other persons interested in lands, tenements or hereditaments, may also petition the court to have dower assigned to the person entitled thereto, which shall be proceeded in in the same manner as is prescribed in other cases.

§ 44. Whenever application is made to a county court for leave to sell real estate of a deceased person for the payment of debts, or for the sale of real estate of any ward, as authorized by law, and it appears that there is a dower interest in the land sought to be sold, such court may, in the same proceeding, on the petition of the executor, administrator, guardian, or conservator, or of the person entitled to dower, cause the dower to be assigned, and shall have the same power and may take like proceedings therefor as hereinbefore provided.

§ 45. No person who is endowed of any lands shall commit or suffer any waste thereon on penalty of forfeiting that part of the estate whereupon such waste is made, to him or them that have the immediate estate of freehold or inheritance in remainder or reversion, but every person so endowed shall maintain the houses and tenements, with the fences and appurtenances in good repair, and shall be liable to the person having the next immediate estate of inheritance therein for all damages occasioned by any waste committed or suffered by him or her.

§ 46. No person who sells and conveys lands by order of the court for the payment of debts shall be deemed to have relinquished, by reason of such conveyance, any right of dower which he or she may have in such lands, unless his or her relinquishment is specified in the deed or conveyance.

§ 47. Section seventy-eight of an act entitled "An act in regard to the administration of estates," approved April 1, 1872, is hereby repealed: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

EVIDENCE AND DEPOSITIONS.

AN ACT TO AMEND SECTION FIVE (5) OF AN ACT ENTITLED "AN ACT IN REGARD TO EVIDENCE AND DEPOSITIONS IN CIVIL CASES," APPROVED MARCH 29, 1872.

Approved January 21, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section five (5) of an act entitled "An act in regard to evidence and depositions in civil cases," approved March 29, 1872, be and the same is hereby amended so as to read as follows, to wit:

"§ 5. No husband or wife shall, by virtue of section one of this act be rendered competent to testify for or against each other as to any transaction or conversation occurring during the marriage, whether called as a witness during the existence of the marriage, or after its dissolution, except in cases where the wife would, if unmarried, be plaintiff or defendant, or where the cause of action grows out of a personal wrong or injury, done by one to the other, or grows out of the neglect of the husband to furnish the wife with a suitable support; and except in cases where the litigation shall be concerning the separate property of the wife, and suits for divorce; and except also, in actions upon policies of insurance of property, so far as relates to the amount and value of the property alleged to be injured or destroyed, or in actions against carriers, so far as relates to the loss of property and the amount and value thereof; or in all matters of business transactions where the transaction was had and conducted by such married woman as the agent of her husband; in all of which cases, the husband and wife may testify for or against each other, in the same manner as other parties may under the provisions of this act: *Provided*, that nothing in this section contained shall be construed to authorize or permit any such husband or wife to testify to any admissions or conversations of the other, whether made by him to her, or by her to him, or by either to third persons, except in suits or causes between such husband and wife."

AN ACT TO AMEND SECTION FORTY-SEVEN (47) OF AN ACT ENTITLED "AN ACT IN REGARD TO EVIDENCE AND DEPOSITIONS IN CIVIL CASES," APPROVED MARCH 29, A. D. 1872.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section forty-seven (47) of an act entitled "An act in regard to evidence and depositions in civil cases," approved March 29, A. D. 1872, be and the same is hereby amended, so that the same shall read as follows: "Interpreters may be sworn truly to interpret, when necessary."

Revision. - - - Viewers. - - - Adjoining Owners. - - - Payment.

FENCES.

AN ACT TO REVISE THE LAW IN RELATION TO FENCES.

Approved March 21, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That in counties under township organization the town assessor and commissioners of highways shall be *ex officio* fence viewers in their respective towns. In counties not under township organization the county board, at their annual meeting in December, shall appoint three fence viewers in each precinct, who shall hold their office for one year, and until their successors are appointed.

§ 2. Fences four and one-half feet high, and in good repair, consisting of rails, timber, boards, stone, hedges, or whatever the fence viewers of the town or precinct where the same shall lie, shall consider equivalent thereto, shall be deemed legal and sufficient fences: *Provided*, that in counties under township organization the electors at any annual town meeting may determine what shall constitute a legal fence in the town, and in counties not under township organization the power to regulate the height of fences shall be vested in the county board.

§ 3. Where two or more persons shall have lands adjoining, each of them shall make and maintain a just proportion of the division fence between them, except the owner of either of the adjoining lands shall choose to let such land lie open: *Provided*, that where owners of adjoining lands, by mutual agreement, have heretofore built, or may hereafter build their respective portions of a partition fence, it shall not be lawful for either to remove his part of said fence, so long as he may crop or use such land for farm purposes, or without giving the other party one year's notice, in writing, of his intentions to move his portion of the fence.

§ 4. When any person shall have chosen to let his land lie open, if he shall afterward inclose the same, or if any owner of land adjoining upon the inclosure of another shall inclose the same upon the inclosure of another, he shall refund to the owner of the adjoining lands a just proportion of the value at that time of any division fence that shall have been made by such adjoining owner, if the same shall be a ditch or hedge, and if the same be not a ditch or hedge, he shall immediately build his proportion of such division fence, or refund to said adjoining owner a just proportion of the value at that time of such fence.

§ 5. The value of such fence, and the proportion thereof to be paid by such person, and the proportion of the division fence to be made and maintained by him, in case of his inclosing his land, shall be determined by two fence viewers of the town, in counties under township organization, and in other counties by any two fence viewers of the precinct.

Repairs. - - - Disagreements. - - - Arbitration. - - - Notice.

§ 6. If any person neglect to repair or rebuild a division fence, or portion thereof which he ought to maintain, any two fence viewers of the town or precinct, as the case may be, shall, on complaint by the party aggrieved, after giving due notice to each party, examine such fence, and if they deem the same to be insufficient, they shall so notify the delinquent party, and direct him to repair or rebuild the same within such time as they may deem reasonable.

§ 7. If disputes arise between the owners of adjoining lands, concerning the proportion of fence to be made or maintained by either of them, such disputes shall be settled by any two of the fence viewers of the town or precinct, as the case may be, and in such cases it shall be the duty of the two fence viewers to distinctly mark and define the proportion of the fence to be made or maintained by each.

§ 8. When any of the above mentioned matters shall be submitted to fence viewers, each party shall choose one; and if either neglect, after eight days' notice, in writing, to make such choice, the other party may select both. And for all purposes of notice under this act, it shall be sufficient to notify the tenant or person in possession of said adjoining premises, when the owner thereof is not a resident of the town in which such fences are situated.

§ 9. The two fence viewers so chosen shall examine the premises, and hear the allegations of the parties. In case of their disagreement, they shall select another fence viewer to act with them; and the decision of any two of them shall be final upon the parties to such dispute and upon all parties holding under them.

§ 10. The decision of the fence viewers shall be reduced to writing; shall contain a description of the fence, and of the proportion to be maintained by each, and their decision upon any other point in dispute between the parties, submitted to them as aforesaid; and shall be forthwith filed in the office of the town clerk, or in the office of the county clerk in counties which shall not have adopted township organization.

§ 11. If any person who is liable to contribute to the erection or reparation of a division fence shall neglect or refuse to make or repair his proportion of such fence, the party injured, after giving sixty days' notice, in writing, that a new fence should be erected, or ten days' notice, in writing, that the reparation of such fence is necessary, may make or repair the same at the expense of the party so neglecting or refusing, to be recovered from him, with costs of suit; and the party so neglecting or refusing, after notice in writing, shall be liable to the party injured for all damages which shall thereby accrue, to be determined by any two fence viewers selected as above provided; and the fence viewers shall reduce their appraisalment of damages to writing, and sign the same.

§ 12. Whenever a division fence shall be injured or destroyed by fire, floods, or other casualty, the person bound to make and repair such fence, or

Fences. - - - Removal. - - - Compensation. - - - Animals Breaking.

any part thereof, shall make or repair the same, or his just proportion thereof, within ten days after he shall be thereto required by any person interested therein—such requisition to be in writing, and signed by the party making the same.

§ 13. If such person shall neglect or refuse to make or repair his proportion of such fence for the period of ten days after such request, the party injured may make or repair the same at the expense of the party so refusing or neglecting, to be recovered with costs of suit.

§ 14. If any person is disposed to remove a division fence, or part thereof, owned by him, and suffer his lands to lie open, after having first given the adjoining owner one year's notice, in writing, of his intention so to do, he may at any time thereafter remove the same, unless such adjoining owner shall previously cause the value of said fence to be ascertained by fence viewers, selected as hereinbefore provided, and pay or tender the same to such person.

§ 15. If any such fence shall be removed without such notice, the party removing the same shall pay to the party injured all such damages as he may thereby sustain, to be recovered with costs of suit.

§ 16. When a person has made a fence on an inclosure which afterwards on making division lines is found to be on the land of another, and the same has occurred through mistake, such first person may enter on the land of the other and remove his fence and material within six months after such line has been run.

§ 17. But such fence shall not be removed if it was made of material taken from the land on which it is built, until the party pays or tenders to the owner of the land the value of such material, to be ascertained by the fence viewers; nor shall a fence be removed at a time when the removal will throw open or expose the crops of the other party, but it shall be removed within a reasonable time after the crops are secured, although the six months above specified have passed.

§ 18. Fence viewers may examine witnesses on any and all questions submitted to them, and either of such fence viewers shall have power to issue subpoenas for and administer oaths to such witnesses.

§ 19. Fence viewers shall be entitled to one dollar and fifty cents per day, each, for the time necessarily spent as above provided, to be paid in the first instance by the party requiring the services; and all expenses of the view shall be borne equally between the parties, except in case of view to appraise damages for neglect or refusal to make or maintain a just proportion of a division fence, in which case the costs of view shall be paid by the party in default, and may be recovered as part of the damages assessed.

§ 20. If any horse, mule or ass, or any neat cattle, hogs or sheep, or other domestic animals, shall break into any person's inclosure, the fence being good and sufficient, the owner of such animal or animals shall be liable, in an action of trespass, to make good all damages to the owner or

occupier of the inclosure. This section shall not be construed to require such fence in order to maintain an action for injuries done by animals running at large contrary to law.

§ 21. If any such animal or animals shall break into an inclosure surrounded by a fence of the height and sufficiency prescribed by this act, or shall be wrongfully upon the premises of another, the owner or occupier of such inclosure or premises may take into possession such animal or animals trespassing, and keep the same until damages, with reasonable charges for keeping and feeding, and all costs of suit be paid, to be recovered in any court of competent jurisdiction; and any such person who shall take or rescue any such animal so taken up from the possession of the taker up without his consent, shall be liable to a fine of not less than three nor more than five dollars for each of such animals so rescued, to be recovered on complaint before any justice of the peace of the county where such offense shall be committed, for the use of the school fund of the proper county: *Provided*, that within twenty-four hours after taking such animal into his possession, he shall give notice to the owner thereof, if known, or if unknown, he shall post notices at some public place near the premises.

FORCIBLE ENTRY AND DETAINER.

“AN ACT IN REGARD TO FORCIBLE ENTRY AND DETAINER.

Approved February 16, 1874. In force February 16, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That no person shall make an entry into lands or tenements except in cases where entry is allowed by law, and in such cases he shall not enter with force, but in a peaceable manner.

§ 2. The person entitled to the possession of lands or tenements may be restored thereto in the manner hereinafter provided :

First—When a forcible entry is made thereon.

Second—When a peaceable entry is made and the possession unlawfully withheld.

Third—When entry is made into vacant or unoccupied lands or tenements without right or title.

Fourth—When any lessee of the lands or tenements or any person holding under him holds possession without right after the determination of the lease or tenancy by its own limitation, condition or terms or by notice to quit or otherwise.

Fifth—When a vendee having obtained possession under a written or verbal agreement to purchase lands or tenements, and having failed to

Demand. - - - Form of. - - - In Cases of Forfeiture.

comply with his agreement, withholds possession thereof after demand in writing by the person entitled to such possession.

Sixth—When land has been sold under the judgment or decree of any court in this state, or by virtue of any sale made under any power of sale in any mortgage or deed of trust contained, and the party to such judgment or decree or to such mortgage or deed of trust, after the expiration of the time of redemption, when redemption is allowed by law, refuses or neglects to surrender possession thereof after demand in writing by the person entitled thereto, or his agent.

§ 3. The demand required by the preceding section may be made by delivering a copy thereof to the tenant, or by leaving such copy with some person above the age of twelve years, residing on, or being in charge of the premises, or in case no one is in the actual possession of the premises, then by posting the same on the premises. When any such demand is made by an officer authorized to serve process, his return shall be *prima facie* evidence of the facts therein stated, and if such demand is made by any person not an officer, the return may be sworn to by the person serving the same, and shall then be *prima facie* evidence of the facts therein stated. Which demand for possession may be in the following form:

“To....., I hereby demand immediate possession of the following described premises: (describing the same).” Which demand shall be signed by the person claiming such possession, his agent or attorney.

§ 4. In case of forfeiture under contract of purchase, the purchaser shall be entitled to cultivate and gather the crops, if any, planted by him and grown or growing on the premises at the time of the commencement of the suit, and shall have the right to enter for the purpose of removing such crops, first paying or tendering to the party entitled to the possession a reasonable compensation for such use of the land before removing such crops.

§ 5. On complaint in writing by the party or parties entitled to the possession of such premises being filed in any court of record, or with any justice of the peace in the county where such premises are situated, stating that such party is entitled to the possession of such premises (describing the same with reasonable certainty), and that the defendant (naming him) unlawfully withholds the possession thereof from him or them, the clerk of such court or such justice of the peace shall issue a summons directed to the sheriff or any constable of his county to execute, which summons when issued by a justice of the peace may be substantially in the following form:

STATE OF ILLINOIS, }
County of } ss.

“The People of the State of Illinois to the sheriff or any constable of said county, greeting:

“You are hereby commanded to summon....., to appear before..... at..... on the..... day of....., A. D., at..... o'clock,

Summons. - - - Service. - - - Trials.

M., to answer the complaint of....., wherefore he unlawfully withholds from him the possession of certain premises in said county (describing the premises,) and hereof make due return, as the law directs.

"Given under my hand this.....day of....., A. D., 18..."

§ 6. When the summons is issued out of a court of record, it may be in like form as other summons issued out of such court.

§ 7. When the summons is issued by a justice of the peace, it shall specify a certain place, day and hour for the trial, not less than five nor more than fifteen days from the date of the summons.

§ 8. When the summons is issued out of a court of record, the summons shall be made returnable on the first day of the next succeeding term of said court, and if not served ten days before the first day of the next term, the cause shall be continued to the next term of court.

§ 9. Service of summons shall be made by delivering a copy thereof to the defendant, or by leaving such copy at his usual place of abode, with some person of the family of the age of twelve years or upwards, and informing such person of the contents thereof. The manner of the service, and the date thereof, shall be endorsed on the back of said summons by the officer serving the same. When service cannot be had as provided in this section, and it shall appear by affidavit or the return of the officer that the defendant is not a resident of this state, or has departed from this state, or on due inquiry cannot be found, or is concealed within this state so that process cannot be served upon him, then, if the suit is in a court of record, service may be had by notice as in case of attachment in courts of record, or if the suit is before a justice of the peace, by notice as in case of attachment before justices of the peace.

§ 10. In trials under this act before justices of the peace, either party may have the case tried by a jury, if he shall so determine before the trial is entered upon, and will first advance the fees of the jurors. The number of the jurors shall be six, or any greater number not exceeding twelve, as either party may desire.

§ 11. Trials under this act in courts of record, shall be the same as in other cases at law in such courts: *Provided*, no special pleading shall be required, but the defendant may, under the plea of "not guilty," give in evidence any matter in defense of the action.

§ 12. If the defendant does not appear, (having been duly summoned as herein provided) the trial may proceed *ex parte*, and may be tried by the justice of the peace or judge of the court, without the intervention of a jury.

§ 13. If it shall appear on the trial that the plaintiff is entitled to the possession of the whole of the premises claimed, he shall have judgment and execution for the possession thereof and for his costs.

§ 14. If it shall appear that the plaintiff is entitled to the possession of only a part of the premises claimed, the judgment and execution shall be for

Leases. - - - Several Defendants. - - - Appeals. - - - Acts Repealed.

that part only and for costs, and for the residue the defendant shall be found not guilty.

§ 15. Whenever there shall have been one lease for the whole of certain premises, and the actual possession thereof, at the commencement of the suit, shall be divided in severalty among persons with, or other than the lessee, in one or more portions or parcels, separately or severally held or occupied, all or so many of such persons, with the lessee, as the plaintiff may elect, may be joined as defendants in one suit, and the recovery against them, with costs, shall be several, according as their actual holdings shall respectively be found to be.

§ 16. If the plaintiff is non-suited, or fails to prove his right to the possession, the defendant shall have judgment and execution for costs.

§ 17. The plaintiff may at any time dismiss his suit as to any one or more of the defendants, and the jury or court may find any one or more of the defendants guilty, and the others not guilty, and the court shall thereupon render judgment according to such finding.

§ 18. If any party shall feel aggrieved by the verdict of the jury, or decision of the court, upon any trial had under this act, such party may have an appeal, to be taken to the same courts, in the same manner and tried in the same way as appeals are taken and tried in other cases: *Provided*, the appeal is prayed and bond is filed within five days from the rendition of the judgment, and no writ of restitution shall be issued in any case until the expiration of said five days.

§ 19. If the defendant appeals, the condition of the bond shall be that he will prosecute such appeal with effect, and pay all rent then due or that may become due before the final determination of the suit, and also all damages and loss which the plaintiff may sustain by reason of the withholding of the premises in controversy, and by reason of any injury done thereto during such withholding, until the restitution of the possession thereof to the plaintiff, together with all costs that may accrue in case the judgment from which the appeal is taken is affirmed or appeal dismissed; which said bond shall be in sufficient amount to secure such rent, damages and costs, to be ascertained and fixed by the court. And the court in which the appeal may be pending may require a new bond in a larger amount if necessary to secure the rights of the parties. And in case of continuance may require another bond to be given to further secure the same.

§ 20. If the plaintiff appeals, the condition of the bond shall be as in other cases of appeal, when taken by the plaintiff.

§ 21. Chapter forty-three of the Revised Statutes of 1845, entitled "Forcible Entry and Detainer," and an act entitled "An act in regard to forcible entry and detainer," approved April 10, 1872, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed

Appointment of Guardian. - - - Adoption of Children.

as to effect any rights existing or actions pending at the time this act shall take effect.

§ 22. Whereas, there is great uncertainty as to some of the provisions of the law relating to cases of forcible entry and detainer, therefore an emergency is declared to exist, and this act shall take effect and be in force from and after its passage.

GUARDIAN AND WARD.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN REGARD TO GUARDIANS AND WARDS," APPROVED APRIL 10, 1872.

Approved March, 23, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section three (3) of said act be and the same is hereby amended to read as follows, to wit:

"§ 3. If a minor is under the age of fourteen years, the county court may nominate and appoint his guardian. If he is above that age, he may nominate his own guardian, who, if approved by the court, shall be appointed accordingly; if not approved by the court, or if the minor resides out of the state, or if, after being cited, he neglects to nominate a suitable person, the court may nominate and appoint his guardian in the same manner as if he was under the age of fourteen years: *Provided*, that in all cases when a guardian has been appointed by the court while the minor was under the age of fourteen years, such minor, on attaining the age of fourteen years, may, at his election, nominate his own guardian, who shall be appointed by the court if deemed a suitable person, and the new guardian so appointed shall supersede the former one, whose functions shall thenceforth cease and determine, and it shall be the duty of the former guardian to deliver up to his successor all the goods, chattels, moneys, title papers and other effects belonging to such minor in like manner and subject to the same penalties as are provided in the fortieth (40th) section of this act, upon the removal, death or resignation of a guardian."

AN ACT TO REVISE THE LAW IN RELATION TO THE ADOPTION OF CHILDREN.

Approved February 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That any resident of this state may petition the circuit or county court of the county in which he resides, for leave to adopt

Adoption of Children. - - - Descent of Property.

a child not his own, and, if desired, for a change of the child's name; but the prayer of such petition, by a person having a husband or wife, shall not be granted unless such husband or wife joins therein; and when they so join, the adoption shall be by them jointly.

§ 2. The petition shall state the name, sex and age of the child sought to be adopted, and, if it is desired to change the name, the new name; the name and residence of the parents of the child, if known to the petitioner, and of the guardian, if any, and whether the parents, or the survivor of them, or the guardian, if any, consents to such adoption.

§ 3. If the court is satisfied that the parents of the child or the survivor of them has deserted his or her family, or such child, for the space of one year next preceding the application, or, if neither is living, the guardian; or if there is no guardian, the next of kin in this state, capable of giving consent, has a notice of the presentation of the petition and consents to such adoption; or that such child has no father or mother living, and no next of kin living in this state, capable of giving consent, or is a foundling, and that the facts stated in the petition are true, and that the petitioner is of sufficient ability to bring up the child, and furnish suitable nurture and education, and that it is fit and proper that such adoption should be made, a decree shall be made, setting forth the facts and ordering that from the date of the decree the child shall, to all legal intents and purposes, be the child of the petitioner or petitioners, and may decree that the name of the child be changed according to the prayer of the petitioner.

§ 4. If the child is of the age of fourteen years or upward, the adoption shall not be made without his consent.

§ 5. A child so adopted shall be deemed, for the purposes of such inheritance by such child, and his descendants and husband or wife, and other legal consequences and incidents of the natural relation of parents and children, the child of the parents by adoption, the same as if he had been born to them in lawful wedlock, except that he shall not be capable of taking property expressly limited to the body or bodies of the parents by adoption, nor property from the lineal or collateral kindred of such parents by right of representation.

§ 6. The parents by adoption and their heirs shall take by descent, from any child adopted under this or any other law of this state for the adoption of children, and the descendants, and husband or wife, of such child, only such property as he has taken or may hereafter take from or through the adopting parents, or either of them, either by gift, bequest, devise or descent, with the accumulations, income and profits thereof; and all laws of descent and rules of inheritance shall apply to and govern the descent of any such property, the same as if the child were the natural child of such parents; but the parents by adoption and their heirs shall not inherit any property which such child may take or have taken, by gift, bequest, devise or descent, from his kindred by blood.

Writ. — — — Petition, Substance of.

§ 7. The preceding section shall apply to any case where a child has heretofore been declared by any court to have been adopted, or where such adoption has been declared or assumed in any deed or last will and testament, giving, bequeathing or devising property to such child, as the adopted child of the grantor or testator, and the wife or husband of such adopting parent shall be capable of inheriting from such child the same as if she or he had become the adopted mother or father of such child, pursuant to this act.

§ 8. The natural parents of a child so adopted shall be deprived, by the decree, of all legal rights, as respects the child, and the child shall be freed from all obligations of maintenance and obedience as respects such parents.

HABEAS CORPUS.

AN ACT TO REVISE THE LAW IN RELATION TO HABEAS CORPUS.

Approved March 2, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That every person imprisoned or otherwise restrained of his liberty, except as herein otherwise provided, may prosecute a writ of *habeas corpus* in the manner provided in this act, to obtain relief from such imprisonment or restraint, if it prove to be unlawful.

§ 2. Application for the writ shall be made to the court or judge authorized to issue the same, by petition signed by the person for whose relief it is intended, or by some person in his behalf, and verified by affidavit.

§ 3. The petition shall state in substance:

First—That the person in whose behalf the writ is applied for is imprisoned or restrained of his liberty, and the place where, naming all the parties, if they are known, or describing them if they are not known.

Second—The cause or pretense of the restraint, according to the best knowledge and belief of the applicant, and that such person is not committed or detained by virtue of any process, judgment, decree or execution specified in the twenty-first section of this act.

Third—If the commitment or restraint is by virtue of any warrant or writ or process, a copy thereof shall be annexed, or it shall be averred that by reason of such prisoner being removed or concealed before application, a demand of such copy could not be made, or that such demand was made, and the legal fees therefor tendered to the officer or person having such prisoner in his custody, and that such copy was refused.

§ 4. Any sheriff or other officer or person having custody of any prisoner committed on any civil or criminal process of any court or magistrate,

Habeas Corpus. - - - Issue of Writ. - - - How Served. - - - Witnesses.

who shall neglect to give such prisoner a copy of the process or order of commitment by which he is imprisoned within six hours after demand made by the prisoner, or any one on his behalf, shall forfeit to the prisoner or party aggrieved not exceeding five hundred dollars.

§ 5. Unless it shall appear from the petition itself, or from the documents thereto annexed, that the party can neither be discharged, admitted to bail nor otherwise relieved, the court or judge shall forthwith award a writ of *habeas corpus*. Any judge empowered to issue writs of *habeas corpus* who shall corruptly refuse to issue any such writ when legally applied for in a case where it may lawfully issue, or who shall for the purpose of oppression unreasonably delay the issuing of such writ, shall, for every such offense, forfeit to the prisoner or party aggrieved a sum not exceeding one thousand dollars.

§ 6. If a writ is allowed by a court, it shall be issued by the clerk under the seal of the court; if by a judge, it shall be under his hand, and shall be directed to the person in whose custody or under whose restraint the prisoner is, and may be substantially in the following form to-wit:

"The People of the State of Illinois to the Sheriff of County (or 'to A B,' as the case may be):

"You are hereby commanded to have the body of C D, by you imprisoned and detained as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name said C D shall be called or charged, before court of county, (or before E F, judge of, etc.) at, etc., immediately after being served with this writ, to be dealt with according to law, and have you then and there this writ, with a return thereon of your doings in the premises."

§ 7. To the intent that no officer or person to whom such writ is directed may pretend ignorance thereof, every such writ shall be indorsed with these words: "By the *habeas corpus* act."

§ 8. When the party has been committed upon a criminal charge, unless the court or judge shall deem it unnecessary, a subpoena shall also be issued to summon the witnesses whose names have been indorsed upon the warrant of commitment, to appear before such court or judge at the time and place when and where such *habeas corpus* is returnable, and it shall be the duty of the sheriff, or other officer to whom the subpoena is issued, to serve the same, if it be possible, in time to enable such witnesses to attend.

§ 9. The *habeas corpus* may be served by the sheriff, coroner or any constable or other person appointed for that purpose by the court or judge by whom it is issued or allowed; if served by a person not an officer, he shall have the same power, and be liable to the same penalty for non-performance of his duty, as though he were sheriff.

§ 10. Service shall be made by leaving a copy of the original writ with the person to whom it is directed, or with any of his under officers who may

be at the place where the prisoner is detained; or if he cannot be found or has not the person imprisoned or restrained in custody, the service may be made upon any person who has him in custody with the same effect as though he had been made a defendant therein.

§ 11. When the person confined or restrained is in the custody of a civil officer, the court or judge granting the writ shall certify thereon the sum to be paid for the expense of bringing him from the place of imprisonment, not exceeding ten cents per mile, and the officer shall not be bound to obey it unless the sum so certified is paid or tendered to him, and security is given to pay the charges of carrying him back if he should be remanded: *Provided*, that if such court or judge shall be satisfied that the person so confined or restrained is a poor person and unable to pay such expense, then such court or judge shall so certify on such writ, and in such case no tender or payment of expenses need be made or security given as aforesaid, but the officer shall be bound to obey such writ.

§ 12. The officer or person upon whom any such writ is served shall state in his return, plainly and unequivocally:

1. Whether he has or has not the party in his custody or control, or under his restraint, and if he has not, whether he has had the party in his custody or control, or under his restraint, at any and what time prior or subsequent to the date of the writ.

2. If he has the party in his custody or control, or under his restraint, the authority and true cause of such imprisonment or restraint, setting forth the same at large.

3. If the party is detained by virtue of any writ, warrant or other written authority, a copy thereof shall be annexed to the return, and the original shall be produced and exhibited on the return of the writ to the court or judge before whom the same is returnable.

4. If the person upon whom the writ is served has had the party in his custody or control, or under his restraint, at any time prior or subsequent to the date of the writ, but has transferred such custody or restraint to another, the return shall state particularly to whom, at what time, for what cause, and by what authority such transfer took place. The return shall be signed by the person making the same, and except where such person is a sworn public officer and makes the return in his official capacity, it shall be verified by oath.

§ 13. The officer or person making the return shall, at the same time, bring the body of the party, if in his custody or power, or under his restraint, according to the command of the writ, unless prevented by the sickness or infirmity of the party.

§ 14. When, from the sickness or infirmity of the party, he cannot, without danger, be brought to the place appointed for the return of the writ, that fact shall be stated in the return, and if it is proved to the satisfaction of the judge, he may proceed to the jail or other place where the party is

Refusal to Obey. - - - Attachment. - - - Persons Illegally Held.

confined, and there make his examination, or he may adjourn the same to such other time, or make such other order in the case as law and justice require.

§ 15. If the officer or person upon whom such writ is served refuses or neglects to obey the same, by producing the party named in the writ, and making a full and explicit return thereto within the time required by this act, and no sufficient excuse is shown for such refusal or neglect, the court or judge before whom the writ is returnable, upon proof of the service thereof, shall enforce obedience by attachment as for contempt, and the officer or person so refusing or neglecting shall forfeit to the party aforesaid a sum not exceeding five hundred dollars, and be incapable of holding office.

§ 16. The court or judge may also, at the same time or afterwards, issue a writ to the sheriff or other person to whom such attachment is directed, commanding him to bring forthwith before the court or judge the party for whose benefit the writ was allowed, who shall thereafter remain in the custody of such sheriff, or other person, until he is discharged, bailed or remanded, as the court or judge shall direct.

§ 17. Whenever it shall appear by the complaint, or by affidavit, that any one is illegally held in custody or restraint, and that there is good reason to believe that such person will be taken out of the jurisdiction of the court or judge before whom the application for a *habeas corpus* is made, or will suffer some irreparable injury before compliance with the writ can be enforced, such court or judge may cause the writ to be directed to the sheriff or other proper officer, commanding him to take the prisoner thus held in custody or restraint, and forthwith bring him before the court or judge to be dealt with according to law. The court or judge may also, if the same is deemed necessary, insert in the writ a command for the apprehension of the person charged with causing the illegal restraint. The officer shall execute the writ by bringing the person therein named before the court or judge, and the like return and proceedings shall be required and had as in other writs of *habeas corpus*.

§ 18. Upon the return of a writ of *habeas corpus*, the court or judge shall, without delay, proceed to examine the cause of the imprisonment or restraint, but the examination may be adjourned from time to time as circumstances require.

§ 19. The party imprisoned or restrained may deny any of the material facts set forth in the return, and may allege any other facts that may be material in the case, which denial or allegation shall be on oath; and the court or judge shall proceed in a summary way to examine the cause of the imprisonment or restraint, hear the evidence produced by any person interested or authorized to appear, both in support of such imprisonment or restraint and against it, and thereupon shall dispose of the party as the case may require.

§ 20. The return, as well as any denial or allegation, may be amended at any time by leave of the court or judge.

§ 21. No person shall be discharged under the provisions of this act, if he is in custody either —

First — By virtue of process of any court or judge of the United States, in a case where such court or judge has exclusive jurisdiction; or,

Second — By virtue of a final judgment or decree of any competent court of civil or criminal jurisdiction, or of any execution issued upon such judgment or decree, unless the time during which such party may be legally detained has expired; or,

Third — For any treason, felony or other crime committed in any other state or territory of the United States, for which such person ought by the constitution and laws of the United States to be delivered up to the executive power of such state or territory.

§ 22. If it appear that the prisoner is in custody by virtue of process from any court legally constituted, he can be discharged only for some of the following causes:

First — Where the court has exceeded the limit of its jurisdiction, either as to the matter, place, sum or person.

Second — Where, though the original imprisonment was lawful, yet by some act, omission or event which has subsequently taken place, the party has become entitled to his discharge.

Third — Where the process is defective in some substantial form required by law.

Fourth — Where the process, though in proper form, has been issued in a case or under circumstances where the law does not allow process or orders for imprisonment or arrest to issue.

Fifth — Where, although in proper form, the process has been issued or executed by a person either unauthorized to issue or execute the same, or where the person having the custody of the prisoner under such process is not the person empowered by law to detain him.

Sixth — Where the process appears to have been obtained by false pretense or bribery.

Seventh — Where there is no general law, nor any judgment, order or decree of a court to authorize the process if in a civil suit, nor any conviction if in a criminal proceeding. No court or judge, on the return of a *habeas corpus*, shall, in any other matter, inquire into the legality or justice of a judgment or decree of a court legally constituted.

§ 23. In all cases where the imprisonment is for a criminal, or supposed criminal matter, if it appears to the court or judge that there is sufficient legal cause for the commitment of the prisoner, although such commitment may have been informally made, or without due authority, or the process may have been executed by a person not duly authorized, the court or judge shall make a new commitment in proper form, and direct it to the proper

Recognizance of Witnesses. - - - Criminal Offenses. - - - Second Writ. - - - Causes.

officer, or admit the party to bail if the case be bailable. The court or judge shall also, when necessary, take the recognizance of all material witnesses against the prisoner, as in other cases. The recognizances shall be in the form provided by law, and returned as other recognizances. If any judge shall neglect or refuse to bind any such prisoner or witness by recognizance, or to return a recognizance when taken as aforesaid, he shall be deemed guilty of a misdemeanor in office, and be proceeded against accordingly.

§ 24. When any prisoner brought upon a *habeas corpus* shall be remanded to prison, it shall be the duty of the court or judge remanding him, to make out and deliver to the sheriff or other person to whose custody he shall be remanded an order in writing, stating the cause of remanding him. If such prisoner shall obtain a second writ of *habeas corpus*, it shall be the duty of such sheriff, or other person to whom the same shall be directed, to return therewith the order aforesaid; and if it shall appear that the said prisoner was remanded for an offense adjudged not bailable, it shall be taken and received as conclusive, and the prisoner shall be remanded without further proceedings.

§ 25. It shall not be lawful for any court or judge, on a second writ of *habeas corpus* obtained by such prisoner, to discharge the said prisoner, if he is clearly and specifically charged in the warrant of commitment with a criminal offense; but the said court or judge shall, on the return of such second writ, have power only to admit such prisoner to bail where the offense is bailable by law, or remand him to prison where the offense is not bailable, or being bailable, where such prisoner shall fail to give the bail required.

§ 26. No person who has been discharged by order of a court or judge, on a *habeas corpus*, shall be again imprisoned, restrained or kept in custody for the same cause, unless he be afterwards indicted for the same offense, nor unless by the legal order or process of the court wherein he is bound by recognizance to appear. The following shall not be deemed to be the same cause:

First — If, after a discharge for a defect of proof, or any material defect in the commitment, in a criminal case, the prisoner should be again arrested on sufficient proof, and committed by legal process for the same offense.

Second — If, in a civil suit, the party has been discharged for any illegality in the judgment or process, and is afterwards imprisoned by legal process for the same cause of action.

Third — Generally, whenever the discharge has been ordered on account of the non-observance of any of the forms required by law, the party may be a second time imprisoned if the cause be legal and the forms required by law observed.

§ 27. Any person who, knowing that another has been discharged by order of a competent judge or tribunal on a *habeas corpus*, shall, contrary to the provisions of this act, arrest or detain him again for the same cause

Removal of Prisoner. - - - Forfeitures. - - - Suits for.

which was shown on the return of such writ, shall forfeit five hundred dollars for the first offense, and one thousand dollars for every subsequent offense.

§ 28. To prevent any person from avoiding or delaying his trial, it shall not be lawful to remove any prisoner on *habeas corpus* under this act out of the county in which he is confined, within fifteen days next preceding the term of the court at which such person ought to be tried, except it be to convey him into the county where the offense with which he stands charged is properly cognizable.

§ 29. Any person being committed to any prison, or in the custody of any sheriff or other officer or person for any criminal or supposed criminal matter, shall not be removed therefrom into any other prison or custody, unless it be by *habeas corpus* or some other legal writ, or when it is expressly allowed by law. If any person shall remove, or cause to be removed any prisoner so committed, except as above provided, he shall forfeit to the party aggrieved a sum not exceeding three hundred dollars.

§ 30. Any one having a person in his custody, or under his restraint, power or control, for whose relief a writ of *habeas corpus* is issued, who, with intent to avoid the effect of such writ, shall transfer such person to the custody or place him under the control of another, or shall conceal him, or change the place of his confinement, with the intent to avoid the operation of such writ, or with intent to remove him out of the state, shall forfeit for every such offense one thousand dollars, and may be imprisoned not less than one year nor more than five years. In any prosecution for the penalty incurred under this section, it shall not be necessary to show that the writ of *habeas corpus* had issued at the time of the removal, transfer or concealment therein mentioned, if it be proven that the acts therein forbidden were done with the intent to avoid the operation of such writ.

§ 31. All the pecuniary forfeitures incurred under this act shall inure to the use of the party for whose benefit the writ of *habeas corpus* issued, and shall be sued for and recovered with costs, by the attorney-general or states's attorney, in the name of the state, by information; and the amount, when recovered, shall, without any deduction, be paid to the party entitled thereto.

§ 32. In any action or suit for any offense against the provisions of this act, the defendant may plead the general issue, and give the special matter in evidence.

§ 33. The recovery of the said penalties shall be no bar to a civil suit for damages.

§ 34. The several courts having authority to issue writs of *habeas corpus*, may issue the same when necessary to bring before them any prisoner to testify, or to be surrendered in discharge of bail, or for trial upon any criminal charge lawfully pending in the same court; and the writ may run into

Husband and Wife. - - - Desertion.

any county in the state, and there be executed and returned by any officer to whom it is directed.

§ 35. After any such prisoner shall have given his testimony, or been surrendered, or his bail discharged, or he has been tried for the crime with which he is charged, he shall be returned to the jail or other place of confinement whence he was taken for the purpose aforesaid: *Provided*, if such prisoner is convicted of a crime punishable with death or imprisonment in the penitentiary, he may be punished accordingly; but in any case where the prisoner shall have been taken from the penitentiary, and his punishment is by imprisonment, the time of such imprisonment shall not commence to run until the expiration of his time of service under any former sentence.

§ 36. Any person imprisoned for any contempt of court for the non-performance of any order or decree for the payment of money, shall be entitled to a writ of *habeas corpus*, and if it shall appear, on full examination of such person and such witnesses, and other evidence as may be adduced, that he is unable to comply with such order or decree, or to endure the confinement, and that all persons interested in the order or decree have had reasonable notice of the time and place of trial, the court or judge may discharge him from imprisonment, but no such discharge shall operate to release the lien of such order or decree, but the same may be enforced against the property of such person by execution.

HUSBAND AND WIFE.

AN ACT TO REVISE THE LAW IN RELATION TO HUSBAND AND WIFE.

Approved March 30, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That a married woman may, in all cases, sue and be sued, without joining her husband with her, to the same extent as if she were unmarried, and an attachment or judgment in such action may be enforced by or against her as if she were a single woman.

§ 2. If husband and wife are sued together, the wife may defend for her own right, and if either neglect to defend, the other may defend for such one also.

§ 3. When the husband has deserted his family, the wife may prosecute or defend, in his name, any action which he might have prosecuted or defended, and, under like circumstances, the same right shall apply to the husband upon the desertion of the wife.

§ 4. For all civil injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be responsible there-

Debts. - - - Contracts. - - - Earnings. - - - Control of Property. - - - Abandonment.

for, except in cases where he would be jointly responsible with her, if the marriage did not exist.

§ 5. Neither husband or wife shall be liable for the debts or liabilities of the other incurred before marriage, and, except as herein otherwise provided, they shall not be liable for the separate debts of each other, nor shall the wages, earnings or property of either, nor the rent or income of such property, be liable for the separate debts of the other.

§ 6. Contracts may be made and liabilities incurred by a wife, and the same enforced against her, to the same extent and in the same manner as if she were unmarried; but, except with the consent of her husband, she may not enter into or carry on any partnership business, unless her husband has abandoned or deserted her, or is idiotic or insane, or is confined in the penitentiary.

§ 7. A married woman may receive, use and possess her own earnings, and sue for the same in her own name, free from the interference of her husband or his creditors.

§ 8. Neither husband or wife shall be entitled to recover any compensation for any labor performed or services rendered for the other, whether in the management of property or otherwise.

§ 9. A married woman may own, in her own right, real and personal property obtained by descent, gift or purchase, and manage, sell and convey the same to the same extent and in the same manner that the husband can property belonging to him. *Provided*, that where husband and wife shall be living together, no transfer or conveyance of goods and chattels between such husband and wife shall be valid as against the rights and interests of any third person, unless such transfer or conveyance be in writing, and be acknowledged and recorded in the same manner as chattel mortgages are required to be acknowledged and recorded by the laws of this state, in cases where the possession of the property is to remain with the mortgagor.

§ 10. Should either the husband or wife unlawfully obtain or retain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

§ 11. In case the husband or wife abandons the other and leaves the state, and is absent therefrom for one year, without providing for the maintenance and support of his or her family, or is imprisoned in the penitentiary, any court of record in the county where the husband and wife so abandoned or not confined resides, may on application by petition, setting forth fully the facts, if the court is satisfied of the necessity by the evidence, authorize him or her to manage, control, sell and incumber the property of the other, as shall be necessary in the judgment of the court for the support and maintenance of the family, and for the purpose of paying debts of the other, or debts contracted for the support of the family. Notice of such proceedings

Contracts. - - - Sales. - - - Expenses of Family. - - - Children. - - - Insanity.

shall be given as in ordinary actions, and anything done under or by virtue of the order or decree of the court, shall be valid to the same extent as if the same were done by the party owning the property.

§ 12. All contracts, sales or incumbrances, made by either the husband or wife, by virtue of the power contemplated in the preceding section, shall be binding on both, and during such absence or confinement, the person acting under such power, may sue and be sued thereon, and for all acts done, the property of both shall be liable, and execution may be levied and attachments issued accordingly. No suit or proceeding shall abate, or be in anywise affected by the return or release of the person absent or confined, but he or she shall be permitted to prosecute or defend jointly with the other.

§ 13. The husband or wife affected by the proceedings contemplated in the two preceding sections may have the order or decree of the court set aside or annulled, by filing a petition therefor and serving a notice on the person in whose favor the same was granted, as in ordinary actions. But the setting aside of such decree or order shall in no wise affect any act done thereunder.

§ 14. A husband or wife may constitute the other his or her attorney in fact, to control and dispose of his or her property for their mutual benefit or otherwise, and may revoke the same to the same extent and in the same manner as other persons.

§ 15. The expenses of the family and of the education of the children shall be chargeable upon the property of both husband and wife, or of either of them, in favor of creditors therefor, and in relation thereto they may be sued jointly or separately.

§ 16. Neither the husband nor wife can remove the other or their children from their homestead without the consent of the other, unless the owner of the property shall, in good faith, provide another homestead suitable to the condition in life of the family; and if he abandons her, she is entitled to the custody of their minor children, unless a court of competent jurisdiction, upon application for that purpose, shall otherwise direct.

§ 17. When the husband or wife is insane, and shall have been insane continuously for a period of not less than one year, and therefore incapable of executing a deed or mortgage, and relinquishing or conveying his or her right to courtesy, dower or homestead in the real property of the other, the same person may present his or her petition to any court having general chancery jurisdiction in the county where such petitioner resides, or where the real estate to be affected is situated, setting forth the facts, and particularly describing the real estate sought to be conveyed or mortgaged, and praying for an order authorizing the applicant, or some other person, to execute a deed of conveyance or mortgage for such insane person; and thereby relinquish his or her right of courtesy, dower or homestead in said real estate.

§ 18. The petition shall be verified by the oath of the petitioner, and

Revised Law in Relation to Idiots and Lunatics.

shall be filed in the office of the clerk of the proper court. Notice of the filing of such petition shall be given to such insane person as is required to be given to defendants in chancery, by service of summons or by publication. The court shall appoint some discreet person or attorney guardian for the person alleged to be insane, who shall ascertain as to the propriety, good faith and necessity of the petition, and shall have power to resist such application, and subpoena witnesses and take depositions to disprove any of the matters in the petition, or show the impropriety of granting the same.

§ 19. If the court is satisfied upon the hearing that the petition was made in good faith and the prayer thereof ought to be granted, then the court shall enter a decree granting such prayer, and authorizing some discreet and proper person to make, execute, acknowledge and deliver jointly with said petitioner all such conveyances or mortgages, and of such parcels of land as shall in said decree be specified.

§ 20. The court shall require of the petitioner, at the time and as one of the conditions of granting said decree, such security for the protection of the interests and for the proper support of such insane person as the court shall deem satisfactory, and may from time to time renew or change the same, or require additional security. Such security shall be deposited with the clerk of the court, and suits may be maintained thereon for the benefit of such insane person in any court of competent jurisdiction; or the court shall order such portion of the money received from the sale of such property as the court shall deem equitable and just, to be set apart in such manner as the court shall direct, for the use and benefit of such insane person; and such sum, so set apart, shall be and remain subject to the control and order of the court.

§ 21. All deeds of conveyance or mortgages authorized by and executed under the order of any court, made as hereinbefore provided, shall be valid in law and equity, and shall convey all the curtesy, dower or homestead interest of such insane person in and to the real estate so conveyed or mortgaged, as fully as if such person had been sane, and executed and acknowledged the same in due form of law.

IDIOTS AND LUNATICS.

AN ACT TO REVISE THE LAW IN RELATION TO THE COMMITMENT AND
DETENTION OF LUNATICS.

Approved March 21, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That when any person is supposed to be insane or distracted, any near relative, or in case there be none, any respectable person*

Lunatics. - - - Trial of. - - - Verdict. - - - Pauper.

residing in the county may petition the judge of the county court for proceedings to inquire into such alleged insanity or distraction. For the hearing of such application and proceedings thereon, the county court shall be considered as always open.

§ 2. Upon the filing of such petition, the judge shall order the clerk of the court to issue a writ directed to the sheriff or any constable, or the person having the custody or charge of the alleged insane or distracted person, unless he shall be brought before the court without such writ, requiring the alleged insane person to be brought before him at a time and place to be appointed for the hearing of the matter. It shall be the duty of the officer or person to whom the writ is directed to execute and return the same, and bring the alleged insane person before the court as directed in the writ.

§ 3. The clerk shall also issue subpoenas for such witnesses as may be desired on behalf of the petitioner, or of the person alleged to be insane, to appear at the time fixed for the trial of the matter.

§ 4. At the time fixed for the trial a jury of six persons, one of whom shall be a physician, shall be impaneled to try the case. The case shall be tried in the presence of the person alleged to be insane, who shall have the right to be assisted by counsel, and may challenge jurors as in civil cases. The court may, for good cause, continue the case from time to time.

§ 5. After hearing the evidence, the jury shall render their verdict in writing, signed by them, which shall embody the substantial facts shown by the evidence, which verdict may be substantially in the following form :

STATE OF ILLINOIS, } ss.
 ----- County,

"We, the undersigned jurors in the case of ----- (naming the person alleged to be insane,) having heard the evidence in the case, are satisfied that said ----- is insane, and is a fit person to be sent to a state hospital for the insane; that he is a resident of the State of Illinois, and county of -----; that his age is -----; that his disease is of ----- duration; that the cause is supposed to be ----- (or is unknown;) that the disease is (or is not) with him hereditary; that he is not (or is) subject to epilepsy, and that he does (or does not) manifest homicidal or suicidal tendencies. (If the person be a pauper, the fact shall also be announced in the verdict.)"

§ 6. Upon the return of the verdict, the same shall be recorded at large by the clerk, and if it appears that the person is insane, and is a fit person to be sent to a state hospital for the insane, the court shall enter an order that the insane person be committed to a state hospital for the insane, and thereupon it shall be the duty of the clerk of the court to make application to the superintendent of some one of the state hospitals for the insane for the admission of such insane person.

§ 7. If such insane person is a pauper the application shall be first made to the nearest hospital, but if he be not a pauper, application shall be made

Warrant. - - - Indorsement by Hospital Superintendent.

to such one of the state hospitals for the insane as the relatives or friends of the patient shall desire. In any case, if, on account of the crowded condition of any one of the hospitals, or for other good reason, the patient cannot be received therein, or it is not desirable to commit him thereto, he may be committed to any other of said hospitals. Upon receiving any such application, the superintendent shall immediately inform the clerk whether the patient can be received, and if so, at what time; and if not, shall state the reason why.

§ 8. Upon receiving notice at what time the patient will be received, the clerk shall, in due season, for the conveyance of the person to the hospital by the appointed time, issue a warrant directed to the sheriff or any other suitable person, preferring some relative of the insane person when desired, commanding him to arrest such insane person and convey him to the hospital; and if the clerk is satisfied that it is necessary, he may authorize an assistant to be employed.

§ 9. The warrant may be substantially as follows:

STATE OF ILLINOIS, }
 ----- County, } ss.

"The People of the State of Illinois, to ----- :

"You are hereby commanded forthwith to arrest -----, who has been declared to be insane, and convey him to the Northern (or as the case may be) Illinois Hospital for the Insane, (and you are hereby authorized to take to your aid an assistant, if deemed necessary,) and of this warrant make due return to this office after its execution. Witness my hand and the seal of the County Court of ----- County, this ----- day of ----- A. D. -----

[L. S.] ----- Clerk of County Court ----- County."

§ 10. Upon receiving the patient, the superintendent shall indorse upon said warrant a receipt as follows:

"NORTHERN (or as the case may be) ILLINOIS HOSPITAL FOR THE INSANE.

"Received this ---- day, A. D. ----, the patient named in the within warrant. -----, Superintendent."

This warrant, with a receipt thereon, shall be returned to the clerk, to be filed by him with the other papers relating to the case.

§ 11. No person having any contagious or infectious disease, and no idiot, shall be admitted to either of the state hospitals. When the trustees and superintendent shall find that an idiot has been received into the hospital, they may discharge him.

§ 12. If the court shall deem it necessary, pending proceedings and previous to verdict, or after verdict and pending admission to the hospital, temporarily to restrain of his liberty the person alleged to be insane, then the court shall make such order in that behalf as the case may require, and the same being entered of record, a copy thereof certified by the clerk shall

Expenses of Trial. - - - Maintenance while in Hospital.

authorize such person to be temporarily detained by the sheriff, jailer or other suitable person to whom the same shall be directed.

§ 13. When a person not a pauper is alleged to be insane, and is found by the jury not to be insane, the costs of the proceeding, including the fees of the jury, shall be paid by the petitioner, and judgment may be awarded against him therefor. If such person is found to be insane, such costs shall be paid by his guardian, conservator or relatives, as the court may direct. If the person alleged to be insane is a pauper, the costs of the proceeding, including the fees of the jury, shall be paid out of the county treasury: *Provided*, if such pauper is found not to be insane, the court may, in its discretion, award the costs against the petitioner.

§ 14. The expense of conveying a pauper to the hospital shall be paid by the county in which he resides, and that of any other patient by his guardian, conservator or relatives; and in no case shall any such expense be paid by the state, or out of any funds for the insane. The fees of the sheriff for conveying any person to a hospital shall be the same as for conveying convicts to the penitentiary.

§ 15. If the person be not a pauper, then one or more persons, relatives or friends of the patient shall, upon his admission into the hospital, become responsible to the trustees for finding the patient in clothes, and removing him when required; and shall execute a bond conditioned as follows, viz.:

"Know all men by these presents, that we and, of the county of, and state of Illinois, are held and firmly bound unto the trustees of the Northern (or as the case may be) Illinois Hospital for the Insane, in the sum of \$100 (one hundred dollars) for the payment of which we jointly and severally bind ourselves firmly by these presents.

"The condition of this obligation is, that whereas,, insane person of the county and state aforesaid, has been admitted as a patient into the said hospital for the insane: Now, therefore, if we shall find said patient in suitable and sufficient clothing whilst may remain in said institution, and shall promptly pay for such articles of clothing, as it may be necessary to procure for said, at the hospital, and shall remove from said hospital when required by the trustees to do so, then this obligation to be void, otherwise to remain in full force.

"Witness our hands and seals, this day of, A. D.

..... [SEAL.]

..... [SEAL.]

§ 16. The clothing to be furnished each patient upon being sent to the hospital, shall not be less than the following: for a male, three new shirts, a new and substantial coat, vest, and two pairs of pantaloons of woollen cloth, three pairs of woollen socks, a black or dark stock or cravat, a good hat or cap, and a pair of new shoes or boots, and a pair of slippers to wear within doors. For a female, in addition to the same quantity of under garments, shoes and stockings, there shall be two woollen petticoats or skirts, three good

Discharge from Hospital. - - - Non-Residents. - - - False Imprisonment.

dressess, a cloak or shawl, and a decent bonnet. Unless such clothing is delivered in good order to the superintendent, he shall not be bound to receive the patient.

§ 17. If the insane person be a pauper, it shall be the duty of the judge of the county court to see that he is furnished with the necessary amount of substantial clothing at the time he is sent to the hospital, and from time to time while he remains a patient in the hospital, and that he be removed therefrom when required by the trustees; the expense of such clothing and removal shall be paid out of the county treasury, upon the certificate of the judge of the county court.

§ 18. Whenever the trustees shall order any patient discharged, the superintendent shall at once notify the clerk of the county court of the proper county thereof, if the patient is a pauper, and if not, shall notify all the persons who signed the bond required in section fifteen of this act, and request the removal of the patient. If such patient be not removed within thirty days after such notice is received, then the superintendent may return him to the place from whence he came, and the reasonable expenses thereof may be recovered by suit on the bond, or in case of a pauper, shall be paid by the proper county.

§ 19. Whenever application shall be made for a patient not residing within the state, if the superintendent shall be of opinion that from the character of the case it is probably curable, and if there be at the time room in the hospital, the trustees may, in their discretion, order the patient to be admitted, always taking a satisfactory bond for the maintenance of the patient, and for his removal, when required. The rate of maintenance in such cases shall be fixed by the trustees, and two months pay in advance shall be required. But no such patient shall be detained without the order of a court of competent jurisdiction, or the verdict of a jury.

§ 20. When any patient shall be restored to reason, he shall have the right to leave the hospital at any time, and if detained therein contrary to his wishes after such restoration, shall have the privilege of the writ of *habeas corpus* at all times, either on his own application, or that of any other person in his behalf; if the patient is discharged on such writ, and if it shall appear that the superintendent has acted in bad faith or negligently, the superintendent shall pay all the costs of the proceeding. Such superintendent shall moreover be liable to a civil action for false imprisonment.

§ 21. This act shall not be construed to prevent the committing of any insane pauper to the hospital for the insane of the county in which he may reside, where such a hospital is provided.

§ 22. No superintendent, or other officer or person connected with either of the state hospitals for the insane, or with any hospital or asylum for insane or distracted persons, in this state, shall receive, detain or keep in custody, at such hospital or asylum, any person who shall not have been declared insane by the verdict of a jury, and authorized to be confined by the

Revised Law in Relation to Idiots, Lunatics, Drunkards, and Spendthrifts.

order of a court of competent jurisdiction; and no trial shall be had of the question of the sanity or insanity of any person before any judge or court without the presence of the person alleged to be insane.

§ 23. If any superintendent, or other officer or person connected with either of the state hospitals for the insane, or with any hospital or asylum for insane or distracted persons, in this state, whether public or private, shall receive or detain any person who has not been declared insane by the verdict of a jury, and whose confinement is not authorized by the order of a court of competent jurisdiction, he shall be confined in the county jail not exceeding one year, or fined not exceeding five hundred dollars, or both, and be liable civilly to the person injured for all damages which he may have sustained; and if he be connected with either of the insane hospitals of this state, he shall be discharged from service therein.

AN ACT TO REVISE THE LAW IN RELATION TO IDIOTS, LUNATICS,
DRUNKARDS AND SPENDTHRIFTS.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That whenever any idiot, lunatic or distracted person has any estate, real or personal; or when any person by excessive drinking, gaming, idleness or debauchery of any kind so spends, wastes or lessens his estate as to expose himself or his family to want or suffering, or any county, town, or incorporated city, town or village to any charge or expense for the support of himself or his family, the county court of the county in which such person lives shall, on the application of any relative or creditor, or if there be neither relative or creditor, then any person living in such county, order a jury to be summoned to ascertain whether such person be idiot, lunatic or distracted, a drunkard or such spendthrift; and if the jury return in their verdict that such person is idiot, lunatic or distracted, or drunkard, or so spends, wastes or lessens his estate, it shall be the duty of the court to appoint some fit person to be the conservator of such person.

§ 2. On an application for the appointment of a conservator of any person being filed, summons shall be issued and served upon the person for whom a conservator is sought to be appointed, in the same manner as summons is issued and served in cases in chancery. When the application is against an idiot or lunatic, the clerk of the court in which the application is filed shall also give not less than ten (10) days notice thereof by at least one insertion in some newspaper published in the county.

§ 3. The conservator so appointed shall, before entering upon the duties of his office, give bond payable to the People of the State of Illinois, with at least two sufficient sureties, to be approved by the court, in double the amount of his ward's real and personal estate, with such condition as near

as may be as provided in the case of the bonds of guardians of infants. Additional bonds and counter security may be required as hereinafter provided.

§ 4. Bonds given in pursuance of this act may be put in suit in the name of the People of the State of Illinois, to the use of any person entitled to recover on the breach thereof, and damages adjudged on proceedings had thereon as in other cases of penal bonds.

§ 5. Such conservator shall have the care and management of the real and personal estate of his ward, and the custody of his person unless otherwise ordered by the court, and the custody and education of his children, where no other guardian is appointed, unless the court orders otherwise; but this act shall not be so construed as to deprive the mother of the custody and education of the children without her consent, if she be a fit and competent person to have such custody and education.

§ 6. The conservator shall, immediately upon his appointment, take charge of the estate of his ward, and within sixty days after such appointment, or, if the court is not in session at the expiration of that time, at the next term thereafter, return to the court a true and perfect inventory of the real and personal estate of the ward, signed by him and verified by his affidavit. As often as other estate shall thereafter come to his knowledge he shall return an inventory thereof within sixty days from the time the same shall come to his knowledge.

§ 7. The inventory shall describe the real estate, its probable value and rental, and state whether the same is incumbered, and if incumbered, how and for how much; what amount of money is on hand, and contain a list of all personal property, including annuities and credits of the ward, designating them as "good," "doubtful," or "desperate," as the case may be.

§ 8. The conservator shall, at the expiration of a year from his appointment, settle his accounts as conservator with the county court, and at least once each one (1) year thereafter, and as much oftener as the court may require.

§ 9. Such conservator, at the expiration of his trust, shall pay and deliver to those entitled thereto all the money, estate and title papers in his hands as conservator, or with which he is chargeable as such, in such manner as shall be directed by the order or decree of any court having jurisdiction thereof.

§ 10. On every accounting or final settlement of a conservator, he shall exhibit and file his account as such conservator, setting forth specifically, in separate items, on what account expenditures were made by him, and all sums received and paid out since his last accounting, and on what account each was received and paid out, and showing the true balance of money on hand, which account shall be accompanied by the proper vouchers, and signed by him and verified by his affidavit.

§ 11. The conservator shall settle all accounts of his ward, and demand and sue for and receive in his own name, as conservator, all personal prop-

erty of and demands due the ward, or with the approbation of the court compound for the same, and give a discharge to the debtor upon receiving a fair and just dividend of his estate and effects.

§ 12. The conservator, by permission and subject to the direction of the court which appointed him, may perform the personal contracts of his ward, made in good faith and legally subsisting at the time of the commencement of his disability, and which may be performed with advantage to the estate of the ward.

§ 13. He shall appear for and represent his ward in all suits and proceedings, unless another person is appointed for that purpose as conservator or next friend; but nothing contained in this act shall impair or affect the power of any court to appoint a conservator or next friend, to defend the interest of said ward impleaded in such court, or interested in a suit or matter therein pending, nor its power to appoint or allow any person as next friend for such ward, to commence, prosecute or defend any suit in his behalf, subject to the direction of such court.

§ 14. Every note, bill, bond or other contract by an idiot, lunatic, distracted person or spendthrift, made after the finding of the jury, as provided in section one of this act, shall be void as against the idiot, lunatic, distracted person, drunkard or spendthrift, and his estate; but the person making any contract with such idiot, lunatic, distracted person or spendthrift shall be bound thereby.

§ 15. Every contract made with an idiot, lunatic or distracted person before such finding, or with a drunkard or spendthrift made after the application for the appointment of a conservator, may be avoided, except in favor of the person fraudulently making the same.

§ 16. Whoever, by trading with, bartering, gaming or any other device, possesses himself of any property or valuable thing belonging to any idiot, lunatic or notoriously distracted person, drunkard or spendthrift, shall be deemed guilty of swindling, and upon conviction thereof be fined in a sum not exceeding two thousand dollars, or confined in the county jail not exceeding one year, or both.

§ 17. The conservator shall manage the estate of his ward frugally and without waste, and apply the income and profit thereof, so far as the same may be necessary, to the comfort and suitable support of his ward and his family, and the education of his children.

§ 18. It shall be the duty of the conservator to put and keep his ward's money at interest, upon security to be approved by the court, or invest the same in United States bonds or other United States interest bearing securities. Personal security may be taken for loans not exceeding one hundred dollars. Loans in larger amounts shall be upon real estate security. No loan shall be made for a longer time than three years, unless authorized by the court: *Provided*, the same may be extended from year to year, without the approval of the court.

Conservators may Mortgage. - - - Sales of Real Estate.

§ 19. The conservator may lease the real estate of the ward, upon such terms and for such length of time as the county court shall approve.

§ 20. The conservator may, by leave of the county court, mortgage the real estate of the ward for a term of years, or in fee.

§ 21. Before any mortgage shall be made, the conservator shall petition the county court for an order authorizing such mortgage to be made, in which petition shall be set out the condition of the estate and the facts and circumstances on which the petition is founded, and a description of the premises sought to be mortgaged.

§ 22. No decree of strict foreclosure shall be made upon any such mortgage, but redemption shall be allowed, as is now provided by law in cases of sales under executions upon common law judgments.

§ 23. On the petition of the conservator, the county court of the county where the ward resides, or if the ward does not reside in the state, of the county where the real estate or some part of it is situated, may order the sale of the real estate of the ward for his support and that of his family when the court shall deem it necessary, or to invest the proceeds in other real estate, or for the purpose of otherwise investing the same or for the purpose of paying the debts of the ward or the education of the children of said ward.

§ 24. The petition shall set forth the condition of the estate and the facts and circumstances on which the petition is founded, and shall be signed by the conservator and verified by his affidavit, and shall be filed at least ten days before the commencement of the term of court at which the application shall be made.

§ 25. Notice of such application shall be given to all persons concerned by publication in some newspaper published in the county where the application is made at least once in each week for three successive weeks, or if no newspaper is published in such county, by setting up written or printed notices in three of the most public places in the county at least three weeks before the session of the court at which such application shall be made. The ward shall be served with a copy of such notice at least ten days before the hearing of such application. Such service may be proved in the same manner as the service of a copy of a bill in chancery.

§ 26. Such application shall be docketed as other causes, and the petition may be amended, heard or continued for further notice or for other cause. The practice in such cases shall be the same as in other cases in chancery.

§ 27. The court shall direct notice of the time and place of sale to be given, and may direct the sale to be made on reasonable credit, and require such security of the conservator or purchaser as the interest of the ward may require.

§ 28. It shall be the duty of the conservator making such sale, as soon as may be, to make return of such sale to the court granting the order, which,

if approved, shall be recorded, and shall vest in the purchaser or purchasers all the interest of the ward in the estate so sold.

§ 29. An account of all moneys and securities received by any conservator for the sale of real estate of his ward, shall be returned on oath of such conservator to the county court of the county where letters of conservatorship were obtained, and such money shall be accounted for, and subject to the order of the county court in like manner as other moneys belonging to such ward. In case of sale for re-investment in this state, the money shall be reinvested under the direction of the court.

§ 30. It shall be the duty of the county court at each accounting of the conservator to inquire into the sufficiency of his sureties, and if at any time it has cause to believe that the sureties of a conservator are insufficient or in failing circumstances, it shall, after summoning the conservator if he be not before the court, require him to give additional security.

§ 31. Upon the application of the surety of any conservator and after summoning the conservator, the court may, if it believes him to be insolvent or in doubtful circumstances require him to give counter security to his sureties.

§ 32. The county court may remove a conservator for his failure to give bond or security or additional or counter security when required; or for failure to make inventory or to account and make settlement, or support the ward, or when he shall have become insane, or have removed out of the state, or become incapable or unsuitable for the discharge of his duties, or for failure to discharge any duty required of him by law or the order of the court, or for other good cause.

§ 33. Before removing a conservator the court shall summon him to show cause why he should not be removed for the cause alleged. If the conservator has left the state or cannot be served with process he may be notified in the same manner as non-resident defendants in chancery.

§ 34. When it appears proper the court may permit the conservator to resign his trust, if he first settles his accounts and delivers over the estate as by the court directed.

§ 35. Upon the removal, resignation or death of a conservator another may be appointed, who shall give bond and security and perform the duties prescribed by this act. The court shall have power to compel the conservator so removed or resigned, or the executor or administrator of a deceased conservator to deliver up to such successor all the goods, chattels, moneys, title papers and other effects in his custody or control belonging to the ward; and upon failure to so deliver the same, to commit the person offending to jail until he shall comply with the order of the court.

§ 36. Conservators on settlement shall be allowed such fees and compensation for their services as shall seem reasonable and just to the court.

§ 37. When any person, for whom a conservator has been or may be appointed under the provisions of this act, shall be restored to his reason, or

in case such drunkard or spendthrift shall have become so reformed as to be a proper and safe person to have the care and management of his estate, such person may apply to the county court of the county in which such conservator was appointed to have said conservator removed and the care and management of his property, or so much thereof as shall remain restored to him.

§ 38. Notice of such intended application shall be given to the conservator ten days' before the commencement of the term of the court to which the application shall be made.

§ 39. It shall be the duty of the court to which any such application, as provided in the foregoing section, is made, on proof that said conservator has been duly notified of such application, to cause a jury to be summoned to try the question whether said applicant is a fit person to have the care, custody and control of his or her property, and if the said jury return in their verdict that such person is a fit person to have the control of such property as aforesaid, then the court shall enter an order fully restoring such person to all the rights and privileges enjoyed before said conservator was appointed: *Provided*, that such conservator, so removed, shall be allowed a reasonable time to settle his accounts as such, and to pass over the money or property in his hands, and such removal shall not invalidate any contracts made in good faith by said conservator, while acting as such: *Provided, further*, that no application shall be entertained for the removal of any conservator appointed for any person under the provisions of this act, within less than one year from such appointment, unless for neglect of duty or mismanagement of his trust.

§ 40. Appeals shall be allowed to the circuit court from any order or judgment made or rendered under this act, upon the appellant giving such bond and security as shall be directed by the court; but no appeal from an order removing a conservator shall in any wise affect such order until the same be reversed.

§ 41. The conservator, guardian, curator, or committee of any non-resident, idiot, lunatic, insane or distracted person, spendthrift or drunkard, appointed in any of the United States or territories, or any foreign country, in pursuance of the laws of any such state, territory or country, may commence and prosecute in his name as such conservator, guardian, curator or committee, suits for the recovery of any real or personal property, or any interest therein in this state, belonging to any such idiot, lunatic, insane or distracted person, spendthrift or drunkard, or for any injury to any such property, in any of the courts of record in this state having jurisdiction in similar cases by persons in their own rights, and may collect, receive and remove to his place of residence any personal estate of his ward.

§ 42. It shall be lawful for any such conservator, guardian, curator, or committee of any non-resident idiot, lunatic, insane or distracted person, spendthrift or drunkard, who shall obtain an order from the proper court in

Non-Resident Lunatics. - - - Sale and Conveyance of Real Estate.

the state, territory or country in which such conservator, guardian, curator or committee was appointed, authorizing him to make application for the sale of his ward's real estate or personal property in this state, upon filing a certified copy of such order for record in the office of the clerk of the circuit court of the county in this state in which the property, or the major part thereof is situated, by petition to such court to obtain an order authorizing such conservator, guardian, curator or committee to sell and transfer any such property or interest therein, belonging to any such idiot, lunatic, insane or distracted person, spendthrift or drunkard, and to make deeds and conveyances thereof, which deeds and conveyances executed and acknowledged in pursuance of the laws of this state, or of the state, territory or country in which such conservator, guardian, curator or committee was appointed, shall be effectual in law and equity to pass to the grantee or grantees therein all the right, title and interest of such idiot, lunatic, insane or distracted person, spendthrift or drunkard therein. The court ordering the sale may authorize any person to act as auctioneer of the property, but the deed shall be executed by the conservator, guardian, curator or committee.

§ 43. Notice of the time and place of presenting said petition to said circuit court shall be given by publication in the nearest newspaper, for four successive weeks, the first of which publication shall be at least forty days before the time fixed for the presentation of said petition, requesting all persons interested to show cause why the prayer of said petition should not be granted.

§ 44. The said circuit court may, in its discretion, require such conservator, curator, guardian or committee to file a bond, with sufficient securities, conditioned for the faithful application of the money which may be received for any such property, for the benefit, and to the use of such idiot, lunatic, insane or distracted person, spendthrift or drunkard.

§ 45. In all suits by non-resident conservators, guardians, curators or committees they shall give a bond for costs as in cases of other non-residents.

§ 46. Chapter fifty of the Revised Statutes of 1845, entitled "Idiots and Lunatics," and an act entitled "An act to provide for the sale of the estates of insane persons," approved February 12, 1853, and an act entitled "An act to amend chapter L of the Revised Statutes of 1845," approved February 15, 1865, and an act entitled "An act to amend chapter fifty of the Revised Statutes, entitled 'Idiots and Lunatics,' and to extend the provisions thereof to habitual drunkards," approved April 19, 1869, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

Who authorized to Grant Writs. - - - Jurisdiction. - - - Bonds. - - - Costs.

INJUNCTION.

AN ACT TO REVISE THE LAW IN RELATION TO INJUNCTION.

Approved March 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the superior court of Cook county, and the circuit courts in term time, and any judge thereof in vacation, shall have power to grant writs of injunction.

§ 2. When no judge authorized to grant writs of injunction is present in the county, or being present, is unable or incapacitated to act, a master in chancery in such county may order the issuing of such writ.

§ 3. No court, judge or master shall grant an injunction without previous notice of the time and place of the application having been given to the defendants to be affected thereby, or such of them as can conveniently be served, unless it shall appear from the bill or affidavit accompanying the same, that the rights of the complainant will be unduly prejudiced if the injunction is not issued immediately or without such notice.

§ 4. When an injunction shall be granted to stay a suit or judgment at law, the proceeding shall be had in the county where the judgment was obtained, or the suit is pending; but the writ may be sent in the first instance into any county in this state where the defendant resides.

§ 5. Every injunction, when granted, shall operate as a release of all errors in the proceedings at law that are prayed to be enjoined.

§ 6. No writ of injunction shall be granted to stay proceedings under a judgment obtained before a justice of the peace for a sum not exceeding twenty dollars, besides the costs.

§ 7. Only so much of any judgment at law shall be enjoined as the complainant shall show himself equitably not bound to pay, and so much as shall be sufficient to cover costs.

§ 8. Before an injunction shall issue to enjoin a judgment, the complainant shall give bond to the plaintiff therein, in double the amount of such judgment, with sufficient surety approved by the court, judge or master, conditioned for the payment of all moneys and costs due to the plaintiff in the judgment, and such damages as may be awarded against the complainant in case the injunction is dissolved. If the injunction be dissolved in whole or in part, the complainant shall pay, exclusive of legal interest and costs, such damages as the court shall award, not exceeding ten per centum, on such part as may be released from the injunction.

§ 9. In all other cases, before an injunction shall issue, the complainant shall give bond in such penalty, and upon such condition and with such security as may be required by the court, judge or master granting or order-

Bond. - - - Damages. - - - Violation. - - - Motion to Dissolve.

ing the injunction: *Provided*, bond need not be required when, for good cause shown, the court, judge or master is of opinion that the injunction ought to be granted without bond.

§ 10. The bond in any case may be entered into before the clerk of the court from which the writ is to be issued — the court, judge or master granting or ordering the injunction having first approved the security, or it may be entered into before such court, judge or master.

§ 11. All bonds required by this act shall be filed with the clerk of the court to which the writ is returnable, before such writ shall issue.

§ 12. In all cases where an injunction is dissolved by any court of chancery in this state, the court, after dissolving such injunction, and before finally disposing of the suit, upon the party claiming damages by reason of such injunction suggesting, in writing, the nature and amount thereof, shall hear evidence and assess such damages as the nature of the case may require, and to equity appertain, to the party damnified by such injunction, and may award execution to collect the same: *Provided*, a failure so to assess damages shall not operate as a bar to an action upon the injunction bond.

§ 13. Upon satisfactory proof being made in vacation that an injunction has been violated, the judge granting the same, or the judge of the court from which the writ was issued, may issue an attachment and cause the party violating the injunction to be brought before him. Upon his being brought before the said judge, unless he shall disprove or purge the said contempt, the said judge may, in his discretion, commit him to jail until the sitting of the court in which the said injunction is pending, or take bail for his appearance in the said court at the next term thereof, to answer for the said contempt, and to abide the order of the court thereon.

§ 14. A defendant may move to dissolve or modify an injunction in vacation, either for want of equity in the bill or upon the coming in of the answer, and the judge of the court from which the injunction was issued may hear and determine the motion upon five days' notice of the hearing having been given to the complainant or his solicitor.

§ 15. A motion to dissolve an injunction may be made at any time upon answer, or for want of equity on the face of the bill.

§ 16. Upon a motion to dissolve an injunction after answer, the court shall not be bound to take the answer as absolutely true, but shall decide the motion upon the weight of testimony.

§ 17. The complainant may support his bill and the defendant may support his answer by affidavits filed with the same, which may be read in evidence on the hearing of the motion to dissolve the injunction.

§ 18. If, after a motion is made to dissolve an injunction, the complainant in the bill will satisfy the court by his own affidavit, or that of any disinterested person, that the answer, or any material part thereof, (to be specified in such affidavit,) is untrue, and that he has testimony which will

Testimony. - - - Depositions. - - - Writs Issued on Sunday.

disprove the answer, or such material part thereof, which he can produce at the next term of the court, or at an earlier day, and that he has had no opportunity to procure such testimony since the coming in of the answer, the court may grant a continuance of such motion until the next term, or until such testimony can be procured.

§ 19. The testimony of witnesses to be used upon such motion, except such as may be contained in the affidavits filed with the bill or answer, shall be depositions in writing, which shall be taken in the same manner as other testimony in cases in chancery.

§ 20. Depositions taken upon a motion to dissolve an injunction may be read in the final hearing of the cause.

§ 21. No appeal from a decree dissolving an injunction shall have the effect to continue in force the injunction unless the appeal is prayed at the time of the entering of such decree, and the court allowing the same shall so order, or unless the party praying the appeal shall, within ten days after the appeal is allowed, procure from the supreme court, if in session, or a judge thereof, if in vacation, an order directing that the appeal shall have the effect to continue such injunction in force; and no such order shall be granted except for good cause appearing in the record, nor when the bill is dismissed by the complainant. The supreme court, or a judge thereof, may for good cause extend the time for procuring such order.

§ 22. The court or judge granting the order for the continuance in force of any such injunction may require, as a condition of granting the same, such further bond and security, to be filed with the clerk of the supreme court, as may be deemed equitable.

§ 23. When an application shall be made on a Sunday for a writ of injunction, and there shall be filed with the bill an affidavit of the complainant, or his, her or their agent or attorney, stating that the benefits of an injunction will be lost or endangered, or irremediable damage occasioned unless such writ be immediately issued, and giving the reasons for such statement, then it shall be lawful for any officer who is authorized by the law of this state to grant writs of injunction, if it appears to him from such affidavit that the benefits of an injunction will be lost or endangered, or irremediable damage occasioned unless such writ be immediately issued, and if the complainant otherwise be entitled to such writ under the law, to grant a writ of injunction on a Sunday; and it shall be lawful for the clerk to issue, and for the sheriff or coroner to serve such writ of injunction on a Sunday as on any other day, and all affidavits and bonds made and proceedings had in such case shall have the same force and effect as if made or had on any other day.

INTEREST.

AN ACT TO REVISE THE LAW IN RELATION TO THE RATE OF INTEREST.

Approved March 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the rate of interest upon the loan or forbearance of any money, goods, or thing in action, shall continue to be six dollars upon one hundred dollars for one year, and after that rate for a greater or less sum, or for a longer or a shorter time, except as hereinafter provided.

§ 2. Creditors shall be allowed to receive at the rate of six per centum per annum, for all moneys after they become due on any bond, bill promissory note, or other instrument of writing; on money lent or advanced for the use of another; on money due on the settlement of account from the day of liquidating accounts between the parties and ascertaining the balance; on money received to the use of another, and retained without the owner's knowledge; and on money withheld by an unreasonable and vexatious delay of payment.

§ 3. Judgment recovered before any court or magistrate shall draw interest at the rate of six per centum per annum from the date of the same until satisfied. When judgment is entered upon any award, report or verdict, interest shall be computed at the rate aforesaid, from the time when made or rendered to the time of rendering judgment upon the same, and made a part of the judgment.

§ 4. In all written contracts it shall be lawful for the parties to stipulate or agree that ten per cent. per annum, or any less sum of interest, shall be taken and paid upon every one hundred dollars of money loaned or in any manner due and owing from any person or corporation to any other person or corporation in this state.

§ 5. No person or corporation shall, directly or indirectly, accept or receive, in money, goods, discounts, or thing in action, or in any other way, any greater sum or greater value, for the loan, forbearance, or discount of any money, goods or thing in action, than as above prescribed.

§ 6. If any person or corporation in this state shall contract to receive a greater rate of interest or discount than ten per cent. upon any contract, verbal or written, such person or corporation shall forfeit the whole of said interest so contracted to be received, and shall be entitled only to recover the principal sum due to such person or corporation.

§ 7. The defense of usury shall not be allowed in any suit, unless the person relying upon such defense shall set up the same by plea, or file in the

Contracts Made in this State. - - - Computation of Time. - - - Acts Repealed.

cause a notice in writing, stating that he intends to defend against the contract sued upon or set-off, on the ground that the contract is usurious.

§ 8. When any bond, bill, draft, acceptance, mortgage, or other contract, shall have been or shall be made in this state, or between citizens of this state, or a citizen of this state and any other state, territory or country, bearing interest at a rate lawful by the laws of this state, may be made payable in any other state, territory or country, such contracts shall be governed by the laws of this state.

§ 9. Whenever, in any statute, act, deed, written or verbal contract, or in any public or private instrument whatever, any certain rate of interest is or shall be mentioned, and no period of time is stated for which such rate is to be calculated, interest shall be calculated at the rate mentioned, by the year, in the same manner as if "per annum" or "by the year" had been added to the rate.

§ 10. In all computations of time, and of interest and discounts, a month shall be considered to mean a calendar month, and a year shall consist of twelve calendar months; and in computations of interest or discount for any number of days less than a month, a day shall be considered a thirtieth part of a month, and interest or discount shall be computed for such fractional parts of a month upon the ratio which such number of days shall bear to thirty.

§ 11. No corporation shall hereafter interpose the defense of usury in any action.

§ 12. The following acts and parts of acts are hereby repealed: Chapter fifty-four of the Revised Statutes of 1845, entitled "Interest;" an act entitled "An act to amend the interest laws of this state," approved January 30, 1849; an act entitled "An act to legalize ten per cent. interest when it is agreed upon between parties," approved January 31, 1857; an act entitled "An act to prohibit corporations from interposing the defense of usury in any action," approved February 11, 1853; an act entitled "An act to amend the interest laws of this state," approved February 12, 1857; an act entitled "An act for the encouragement and security of loans of money," approved February 16, 1857; an act entitled "An act concerning the remedy upon the class of contracts therein referred to," approved February 28, 1867; an act entitled "An act to amend an act therein named," approved March 27, 1869, and all other acts and parts of acts inconsistent with this act. But this section shall not be construed so as to affect any rights that may have accrued, or suits that may be pending when this act shall take effect.

JOINT RIGHTS AND OBLIGATIONS.

AN ACT TO REVISE THE LAW IN RELATION TO JOINT RIGHTS AND OBLIGATIONS.

Approved February 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That if partition be not made between joint tenants, the parts of those who die first shall not accrue to the survivors, but descend or pass by devise, and shall be subject to debts, dower, charges, etc., or transmissible to executors or administrators, and be considered, to every intent and purpose, in the same view as if such deceased joint tenants had been tenants in common.

§ 2. If any person shall assume and exercise exclusive ownership over, or take away, destroy, lessen in value, or otherwise injure or abuse any property held in joint tenancy or tenancy in common, the party aggrieved shall have his action of trespass or trover for the injury, in the same manner as he would have if such joint tenancy or tenancy in common did not exist.

§ 3. All joint obligations and covenants shall be taken and held to be joint and several obligations and covenants.

JUDGMENT AND EXECUTIONS.

AN ACT TO AMEND SECTION FOURTEEN (14) OF THE ACT ENTITLED "AN ACT IN REGARD TO JUDGMENTS AND DECREES AND THE MANNER OF ENFORCING THE SAME BY EXECUTION, AND TO PROVIDE FOR THE REDEMPTION OF REAL ESTATE SOLD UNDER EXECUTION OR DECREE," IN FORCE JULY 1, 1872.

Approved March 30, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section fourteen (14) of said act be amended to read as follows, to-wit:

"§ 14. No real estate shall be sold by virtue of any execution aforesaid, except at public venue, between the hours of nine in the morning and the setting of the sun of the same day, nor unless the time (specifying the particular hour of said day at which said sale shall commence), and the place of holding such sale shall have been previously advertised three successive weeks, once in each week, in a public newspaper printed and published in

List of Legal Voters to be Made.

the county where said sale shall be made (if there be any newspaper printed and published in said county), and by putting up written or printed notices thereof in at least three of the most public places in the county where the real estate is situated, specifying the name of the plaintiff and defendant in the execution—in all of which said notices the real estate to be sold shall be described, with reasonable certainty, and if there shall be more than one newspaper published in such county, the judgment creditor or his attorney may designate the newspaper in which such notice shall be published: *Provided*, that no greater charge shall be made for publishing said notices than two dollars for each one hundred words contained therein.”

JURORS.

AN ACT CONCERNING JURORS, AND TO REPEAL CERTAIN ACTS HEREIN NAMED.

Approved February 11, 1874. In force February 11, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That the county board of each county shall, at or before the time of its meeting in September, in each year, or at any time thereafter, when necessary for the purposes of this act, make a list of a sufficient number, not less than one-tenth of the legal voters of each town or precinct, in the county, giving the place of residence of each name on the list, to be known as the jury list.

§ 2. At the meeting of the county board in the respective counties in this state, in September, in the year 1874, and in each year thereafter, such board shall select from such list a number of persons equal to one hundred for each trial term of the circuit and other courts of record, except county courts, which may be provided by law to be held during the succeeding year, and in the county of Cook, two hundred for each term of the circuit and superior courts of Cook county, and one hundred for the criminal court of Cook county for each trial term, to serve as petit jurors: *Provided*, that the persons selected to serve as jurors in courts of record having jurisdiction only in and for cities, shall be selected from four of the most convenient towns to said court, to be designated by the judge of such court, and the county clerks of the county notified thereof before the first day of September next; and in making such selection shall choose a proportionate number from the residents of each town or precinct, and shall take the names of such only as are:

First — Inhabitants of the town or precinct not exempt from serving on juries.

Who Liable to Jury Duty. - - - Exemptions. - - - Drawing.

Second—Of the age of twenty-one years or upwards, and under sixty years old.

Third—In the possession of their natural faculties, and not infirm or decrepid.

Fourth—Free from all legal exceptions, of fair character, of approved integrity, of sound judgment, well informed, and who understands the English language.

§ 3. If for any reason the list or the selection provided for in the foregoing sections of this act shall not be made at the meeting of the board held at the time specified, such list or selection shall be made at any meeting to be held as soon thereafter as may be.

§ 4. The following persons shall be exempt from serving as jurors, to-wit: the governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, attorney-general, members of the general assembly during their term of office, all judges of courts, all clerks of courts, sheriffs, coroners, postmasters, mail carriers, practicing attorneys, all officers of the United States, officiating ministers of the gospel, school teachers during the terms of school, practicing physicians, constant ferrymen, mayors of cities, policemen and active members of the fire department.

§ 5. At the time of making such selection, the name of the person selected shall be checked off from such list, and shall not be again selected as a juror till every person named upon such list qualified to serve as a juror has been selected; and all subsequent selections of jurors by such board shall be made from such list, until all persons thereon qualified to serve have been selected, or until the expiration to two years from the time of the making of such list, when a new list shall be made: *Provided*, if any person who has been selected as a juror shall not have been drawn, or have served upon a jury during the year for which he was selected, he shall, if qualified, be selected for the next year.

§ 6. As often as one list shall have been exhausted another shall be furnished, as provided in section one of this chapter, and the jurors shall be selected therefrom in the manner provided in sections two and three. The clerks of the circuit courts and other courts of record in the county, shall, at the end of each term of court, furnish the county clerk a list of all persons who have served as jurors during the term.

§ 7. A list of jurors so selected shall be kept in the office of the county clerk, who shall write the name and residence of each person selected upon a separate ticket and put the whole into a box to be kept for that purpose.

§ 8. At least twenty days before the first day of any trial term of any of said courts, the clerk of such court shall repair to the office of the county clerk, and in the presence of such county clerk, after the box containing said names has been well shaken by the county clerk, and without partiality, draw from said box the names of a sufficient number of said persons, then

Grand Jurors. - - - Summons. - - - Petit Jurors.

residents of said county, not less than thirty for each two weeks that such court will probably be in session for the trial of common law cases, to constitute the petit jurors for that term; and where there is an additional judge in any such court, a like number for each additional judge requiring a jury, unless such court shall otherwise order: *Provided*, that should the clerk draw from said box the name of a person whom he may know to be dead, to have been selected as a grand juror, a non-resident, absent from the state, unable to attend in consequence of illness, or that he is legally disqualified to serve as a juror, it shall be the duty of said clerk to report the name of such person to the county clerk; and said clerk of such court shall draw other names until the required number shall have been selected.

§ 9. If the grand jury shall be required by law or by the order of the judge for any term of court, it shall be the duty of the county board in each of the counties in this state, wherein such court is directed to be holden, at least twenty days before the sitting of such court, to select twenty-three persons, possessing the qualifications as provided in section two of this act, and as near as may be a proportionate number from each town or precinct in their respective counties, to serve as grand jurors at such time; and to cause their clerk, within five days thereafter, to certify the names of the persons so selected as grand jurors to the clerk of the court for which they are selected, who shall issue and deliver to the sheriff of the county wherein the court is to be held, at least ten days before the term of the court for which they shall have been selected, or during term time, if the court shall so order, a summons commanding him to summon the persons, so selected as aforesaid, to appear before such court at or before the hour of eleven o'clock A. M., on the first day of the term, or upon such other day as the judge shall direct, to constitute a grand jury for such term. The sheriff shall serve such summons in the manner provided in section eleven of this act, for service of summons on petit jurors, and for any refusal or neglect so to do, shall be deemed guilty of a contempt of court, and may be fined therefor as provided in section eleven of this act, for default in summoning petit jurors. If for any reason the panel of grand jurors shall not be full at the opening of such court, the judge shall direct the sheriff to summon from the body of the county, a sufficient number of persons, having the qualifications of jurors, as provided by this act, to fill the panel.

§ 10. The clerk of the court shall, within five days after such drawing, issue to the sheriff a summons commanding him, to summon as petit jurors a sufficient number, not less than thirty, of the persons so drawn giving their residence, to appear at the place of holding such court, at the hour of ten o'clock A. M. of the first day of the term, or upon such other day of the term as the judges shall direct, and a like number to appear at the same place and hour on the third Monday of the term, and the same number for each two weeks the court will probably be in session, which summons shall be served before the sitting of the court.

Return on Summons. - - - Examination of Jurors. - - - When Panel Exhausted.

§ 11. It shall be the duty of the sheriff to execute the summons by reading the same to, or leaving a copy thereof at the usual place of abode of each of the persons directed to be summoned to constitute the jury as aforesaid, and to make return thereof on or before the return day, to the clerk of the court in which said jurors are to serve, with an indorsement thereon, certifying on whom it has been executed, and the time when; and in default of so doing, such sheriff or other officer shall be considered as guilty of a contempt, and may be fined for the use of the proper county in any sum not less than ten dollars nor more than two hundred dollars; and it shall be the duty of the court, upon return of such summons, to inquire into the cause of any failure to serve any such juror, and unless he shall find that the sheriff has used proper diligence to serve such juror, he shall inflict the fine aforesaid.

§ 12. The judge shall examine the jurors who appear, and if more than twenty-four petit jurors who are qualified, and not subject to any exemption, or any of the disqualifications provided in this act, shall appear and remain after all excuses are allowed, the court shall discharge, by lot, the number in excess of twenty-four. If for any reason the panel of petit jurors shall not be full at the opening of such court, or at any time during the term, the clerk of such court may again repair to the office of the county clerk and draw, in the same manner as at the first drawing, such number of jurors as the court shall direct, to fill such panel, who shall be summoned in the same manner as the others, and, if necessary, jurors may continue to be so drawn and summoned from time to time until the panel shall be filled. In case a jury shall be required in such court, for trial of any cause, before the panel shall be filled in the manner herein provided, the court shall direct the sheriff to summon, from the bystanders, or from the body of the county, a sufficient number of persons having the qualifications of jurors, as provided in this act, to fill the panel, in order that a jury to try such cause may be drawn therefrom, and when such jury is drawn, the persons selected from the bystanders, or from the body of the county, to fill the panel, and not chosen on the jury, shall be discharged from the panel, and those who shall be chosen to serve on such jury shall also be discharged from the panel at the conclusion of the trial: *Provided*, that persons selected from the bystanders, as provided in this section, shall not thereby be disqualified or exempt from service as jurors, when regularly drawn by the clerk for that purpose, in the manner provided in this act.

§ 13. When by reason of challenge in the selection of a jury for the trial of any cause, or by reason of the sudden sickness or absence of any juror for any cause, the regular panel shall be exhausted, the court may direct the sheriff to summon a sufficient number of persons having the qualifications of jurors to fill the panel for the pending trial; but, upon objection by either party to the cause to the sheriff summoning a sufficient number of persons to fill the panel, the court shall appoint a special bailiff to summon such persons: *Provided*, the same person shall not be appointed special bailiff more

Disqualification. - - - Failure to Attend when Summoned.

than once at any term of court. Any person who shall seek the position of a juror, or who shall ask any attorney or other officer of the court or other person to secure his selection as a juryman, shall be deemed guilty of a contempt of court, and be fined not exceeding twenty dollars, and shall thereby be disqualified from serving as a juror for that term, and such fact shall be sufficient ground for challenge. Any attorney or party to a suit pending for trial at that term who shall request or solicit the placing of any person upon a jury, shall be deemed guilty of a contempt of the court and be fined not exceeding one hundred dollars, and the person so sought to be put upon the jury shall be disqualified to serve as a juror at that term of court.

§ 14. It shall be sufficient cause of challenge of a petit juror that he lacks any one of the qualifications mentioned in section two of this act; or that he has served as a juror on the trial of a cause in any court of record in the county within one year previous to the time of his being offered as a juror; or that he is a party to a suit pending for trial in that court, at that term. It shall be the duty of the court to discharge from the panel all jurors who do not possess the qualifications provided in this act, as soon as the fact is discovered: *Provided*, if a person has served on a jury in a court of record within one year, he shall be exempt from again serving during such year, unless he waives such exemption: *Provided, further*, that it shall not be a cause of challenge that a juror has read in the newspapers an account of the commission of the crime with which the prisoner is charged, if such juror shall state, on oath, that he believes he can render an impartial verdict, according to the law and evidence: *And, provided, further*, that in the trial of any criminal cause, the fact that a person called as a juror has formed an opinion or impression, based upon rumor or upon newspaper statements, (about the truth of which he has expressed no opinion,) shall not disqualify him to serve as a juror in such cause, if he shall, upon oath, state that he believes he can fairly and impartially render a verdict therein, in accordance with the law and the evidence, and the court shall be satisfied of the truth of such statement.

§ 15. Every person who shall fail to attend, when, lawfully summoned to appear as a grand or petit juror, as aforesaid, without having a reasonable excuse, shall be considered as guilty of a contempt, and shall be fined by the courts, respectively, in any sum not less than five dollars nor more than one hundred dollars, for the use of the proper county, unless good cause be shown for such default; and it shall be the duty of the court to order a writ of attachment, returnable forthwith, against all such delinquents, and upon the return thereof the court shall proceed to assess said fine, unless the person or persons so attached shall show good cause for such delinquency: *Provided*, that the oath or affirmation of any such delinquent shall at all times be received as competent evidence.

IMPANELING THE GRAND JURY.

§ 16. A full panel of the grand jury shall consist of twenty-three persons, sixteen of whom shall be sufficient to constitute a grand jury.

§ 17. After the grand jury is impaneled, it shall be the duty of the court to appoint a foreman, who shall have power to swear or affirm witnesses to testify before them, and whose duty it shall be, when the grand jury, or any twelve of them, find a bill of indictment to be supported by good and sufficient evidence to indorse thereon "A true bill;" where they do not find a bill to be supported by sufficient evidence, to indorse thereon, "Not a true bill;" and shall, in either case, sign his name as foreman, at the foot of said indorsement, and shall also, in each case in which a true bill shall be returned into court as aforesaid, note thereon the name or names of the witness or witnesses upon whose evidence the same shall have been found.

§ 18. Before the grand jury shall enter upon the discharge of their duties, the following oath shall be administered to the foreman, to-wit: "You, as foreman of this inquest, do solemnly swear (or affirm, as the case may be), that you will diligently inquire into and true presentment make of all such matters and things as shall be given you in charge, or shall otherwise come to your knowledge, touching the present service; you shall present no person through malice, hatred or ill-will; nor shall you leave any unpresented through fear, favor or affection, or for any fee or reward, or for any hope or promise thereof; but in all of your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding; so help you God." And the following oath or affirmation shall be administered to the other jurors: "The same oath that A B, your foreman, has just taken before you, on his part, you and each of you shall well and truly keep and observe on your respective parts; so help you God."

§ 19. No grand jury shall make presentments of their own knowledge, upon the information of a less number than two of their own body, unless the juror giving the information is previously sworn as a witness, in which case, if the evidence shall be deemed sufficient, an indictment may be found thereon in like manner as upon the evidence of any other witness who may not be of the jury. The judge of any court of record of competent jurisdiction may order a special *venire* to be issued for a grand jury at any time when he shall be of opinion that public justice requires it. The order for such *venire* shall be entered on the records of the court by the clerk thereof; and such clerk shall forthwith issue such *venire* under his hand and the seal of the court, and deliver the same to the sheriff, who shall execute the same by summoning, in the manner now provided, or that may hereafter be provided by law for summoning jurors, twenty-three persons, qualified by law, to constitute a grand jury. Such *venire* shall state the day on which such persons shall appear before the court.

Petit Jury. - - - Examination. - - - Qualifications. - - - Acts Repealed.

IMPANELING PETIT JURIES.

§ 20. It shall be the duty of the clerk of the court, at the commencement of each week of the term, to write the name of each petit juror summoned and retained for that week on a separate ticket, and put the whole into a box or other place for safe keeping; and as often as it shall be necessary to impanel a jury, the clerk, sheriff or coroner shall, in the presence of the court, draw by chance twelve names out of such box or other place, which shall designate the twelve to be sworn on the jury, and in the same manner for the second jury, in their turn, as the court may order and direct.

§ 21. Upon the impaneling of any jury in any civil cause now pending, or to be hereafter commenced in any court in this state, it shall be the duty of the court, upon request of either party to the suit, or upon its own motion, to order its full number of twelve jurors into the jury box, before either party shall be required to examine any of the said jurors touching their qualifications to try any such causes: *Provided*, that the jury shall be passed upon and accepted in panels of four by the parties, commencing with the plaintiff.

§ 22. Until the first annual meeting of the several county boards of this state after the passage of this act the lists already prepared as the jury lists shall constitute the jury list provided for under section one (1) of this act.

§ 23. The provisions of this act shall apply to proceedings in both civil and criminal cases.

§ 24. An act entitled "An act concerning jurors," approved April 10, 1872, and the act entitled "An act concerning jurors," approved May 7, 1873, and all other acts or parts of acts inconsistent herewith, are hereby repealed.

§ 25. Whereas, an emergency exists, therefore this act shall take effect and be in force from and after its passage.

AN ACT TO AMEND SECTION FOURTEEN (14) OF AN ACT ENTITLED "AN ACT CONCERNING JURORS, AND TO REPEAL CERTAIN ACTS HEREIN NAMED," APPROVED FEBRUARY 11, 1874.

Approved March 12, 1874. In force March 12, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That section fourteen (14) of said act be amended so as to read as follows:

"§ 14. It shall be sufficient cause of challenge of a petit juror that he lacks any one of the qualifications mentioned in section two (2) of this act; or if he is not one of the regular panel, that he has served as a juror on the trial of a cause in any court of record in the county within one year previous

Jurors. - - - Sec. 22, Act 12th March, 1874, Amended.

to the time of his being offered as a juror; or that he is a party to a suit pending for trial in that court, at that term. It shall be the duty of the court to discharge from the panel all jurors who do not possess the qualifications provided in this act, as soon as the fact is discovered: *Provided*, if a person has served on a jury in a court of record within one year he shall be exempt from again serving during such year, unless he waives such exemption: *Provided, further*, that it shall not be a cause of challenge that a juror has read in the newspapers an account of the commission of the crime with which the prisoner is charged, if such juror shall state on oath that he believes he can render an impartial verdict, according to the law and the evidence; *And, provided, further*, that in the trial of any criminal cause, the fact that a person called as a juror has formed an opinion or impression, based upon rumor, or upon newspaper statements, (about the truth of which he has expressed no opinion,) shall not disqualify him to serve as a juror in such case, if he shall, upon oath, state that he believes he can fairly and impartially render a verdict therein, in accordance with the law and the evidence, and the court shall be satisfied of the truth of such statement."

§ 2. Whereas an emergency exists, therefore this act shall take effect and be in force immediately after its passage.

AN ACT TO AMEND SECTION TWENTY-TWO (22) OF AN ACT CONCERNING JURORS, AND TO REPEAL CERTAIN ACTS THEREIN NAMED, APPROVED MARCH 12, 1874.

Approved March 27, 1874. In force March 27, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That section twenty-two (22) of the above entitled act be so amended as to read as follows, viz.:

"§ 22. Until the first annual meeting of the several county boards of this state after the passage of this act, the lists already prepared as the jury lists shall constitute the jury lists provided for under section one of this act, and jurors may be selected therefrom in counties where such selection may be necessary at any time before said annual meeting of the county board in the manner provided in section two of this act."

§ 2. Whereas an emergency exists, therefore this act shall take effect and be in force from and after its passage.

Dram Shops. - - - County Boards may License on Petition of Legal Voters.

LICENSES.

AN ACT TO PROVIDE FOR THE LICENSING OF AND AGAINST THE EVILS
ARISING FROM THE SALE OF INTOXICATING LIQUORS.

Approved March 30, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That a dram shop is a place where spirituous, or vinous or malt liquors are retailed by less quantity than one gallon, and intoxicating liquors shall be deemed to include all such liquors within the meaning of this act.

§ 2. Whoever, not having a license to keep a dram shop, shall, by himself or another, either as principal, clerk or servant, directly or indirectly, sell any intoxicating liquor in any less quantity than one gallon, or in any quantity to be drank upon the premises, or in or upon any adjacent room, building, yard, premises or place of public resort, shall be fined not less than twenty dollars nor more than one hundred dollars, and imprisoned in the county jail not less than ten nor more than thirty days.

§ 3. The county boards of each county may grant licenses to keep so many dram shops in their county as they may think the public good requires, upon the application by petition of a majority of the legal voters of the town, if the county is under township organization, and if not under township organization, then of a majority of the legal voters of the election precinct or district where the same is proposed to be located, and upon the payment into the county treasury of such sum as the board may require, not less than fifty dollars nor more than three hundred dollars for each license, and upon compliance with the provisions of this act: *Provided*, such board shall not have power to issue any license to keep any dram shop in any incorporated city, town or village, or within two miles of the same, in which the corporate authorities have authority to license, regulate, restrain or prohibit the sale of liquors, or in any place where the sale of intoxicating liquors is prohibited by law.

§ 4. The license shall state the time for which it is granted, which shall not exceed one year, the place where the dram shop is to be kept, and shall not be transferable, nor shall the person licensed keep a dram shop at more than one place at the same time, and any license granted may be revoked by the county board whenever they shall be satisfied that the person licensed has violated any of the provisions of this act, or keeps a disorderly or ill-governed house or place of resort for idle or dissolute persons, or allows any illegal gaming in his dram shop, or in any house or place adjacent thereto.

§ 5. No person shall be licensed to keep a dram shop, or to sell intoxicating liquors, by any county board, or the authorities of any city, town or

Furnishing Liquor to Minors. - - - Penalty for Violating this Act.

village, unless he shall first give bond in the penal sum of three thousand dollars, payable to the People of the State of Illinois, with at least two good and sufficient sureties, freeholders of the county in which the license is to be granted, to be approved by the officer who may be authorized to issue the license, conditioned that he will pay to all persons all damages that they may sustain, either in person or property, or means of support, by reason of the person so obtaining a license, selling or giving away intoxicating liquors. The officer taking such bond may examine any person offered as security upon any such bond, under oath, and require him to subscribe and swear to his statement in regard to his pecuniary ability to become such security. Any bond taken pursuant to this section may be sued upon for the use of any person, or his legal representatives, who may be injured by reason of the selling or giving away any intoxicating liquors by the person so licensed, or by his agent or servant.

§ 6. Whoever, by himself, or his agent or servant, shall sell or give intoxicating liquor to any minor without the written order of his parent, guardian or family physician, or to any person intoxicated, or who is in the habit of getting intoxicated, shall, for each offense, be fined not less than twenty dollars nor more than one hundred dollars, and imprisoned in the county jail not less than ten nor more than thirty days.

§ 7. All places where intoxicating liquors are sold in violation of this act shall be taken, held and declared to be common nuisances, and all rooms, taverns, eating houses, bazars, restaurants, drug stores, groceries, coffee houses, cellars or other places of public resort, where intoxicating liquors are sold in violation of this act, shall be deemed public nuisances; and whoever shall keep any such place, by himself or his agent or servant, shall for each offense, be fined not less than fifty dollars nor more than one hundred dollars, and confined in the county jail not less than twenty nor more than thirty days, and it shall be a part of the judgment, upon the conviction of the keeper, that the place so kept shall be shut up and abated until the keeper shall give bond, with sufficient security to be approved by the court, in the penal sum of one thousand dollars, payable to the People of the State of Illinois, conditioned that he will not sell intoxicating liquors contrary to the laws of this state, and will pay all fines, costs and damages assessed against him for any violation thereof; and in case of a forfeiture of such bond, suit may be brought thereon for the use of the county, city, town or village, in case of a fine due to either of them. It shall not be necessary in any prosecutions under this section to state the name of any person to whom liquor is sold.

§ 8. Every person who shall, by the sale of intoxicating liquors, with or without a license, cause the intoxication of any other person, shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person, and two dollars per day in addition thereto for every day such intoxicated person shall be kept

Persons Injured may Recover Damages. - - - Liens.

in consequence of such intoxication; which sums may be recovered in an action of debt before any court having competent jurisdiction.

§ 9. Every husband, wife, child, parent, guardian, employer or other person, who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and any person owning, renting, leasing or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, or who, having leased the same for other purposes, shall knowingly permit therein the sale of any intoxicating liquors that have caused, in whole or in part, the intoxication of any person, shall be liable, severally or jointly, with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained, and for exemplary damages; and a married woman shall have the same right to bring suits and to control the same and the amount recovered, as a *feme sole*; and all damages recovered by a minor under this act, shall be paid either to such minor, or to his or her parent, guardian or next friend, as the court shall direct; and the unlawful sale, or giving away, of intoxicating liquors, shall work a forfeiture of all rights of the lessee or tenant, under any lease or contract of rent upon the premises where such unlawful sale or giving away shall take place; and all suits for damages under this act may be by any appropriate action in any of the courts in this state having competent jurisdiction.

§ 10. For the payment of any judgment for damages and costs that may be recovered against any person in consequence of the sale of intoxicating liquors under the preceding section, the real estate and personal property of such person, of every kind, except such as may be exempt from levy and sale upon judgment and execution, shall be liable; and such judgment shall be a lien upon such real estate until paid; and in case any person shall rent or lease to another any building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, or shall knowingly permit the same to be so used or occupied, such building or premises so used or occupied shall be held liable for and may be sold to pay any such judgment against any person occupying such building or premises. Proceedings may be had to subject the same to the payment of any such judgment recovered, which remains unpaid, or any part thereof, either before or after execution shall issue against the property of the person against whom such judgment shall have been recovered; and when execution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied, as aforesaid: *Provided*, that if such building or premises belong to a minor or other person under guardianship, the guardian or conservator of such

 Punishment. - - - How Enforced. - - - Construction of Act.

person, and his real and personal property, shall be held liable instead of such ward, and his property shall be subject to all the provisions of this section relating to the collection of said judgment.

§ 11. When the damages claimed under either the eighth or ninth section of this act do not exceed the sum of two hundred dollars, the action therefor may be prosecuted before a justice of the peace of the proper county, and the judgment may be enforced in the same manner as other judgments recovered before justices of the peace.

§ 12. Any fine or imprisonment mentioned in this act may be enforced by indictment in any court of record having criminal jurisdiction, or the fine above may be sued for and recovered before any justice of the peace of the proper county, in the name of the People of the State of Illinois; and in case of conviction the offender shall stand committed to the county jail until the judgment and costs are fully paid.

§ 13. The giving away of intoxicating liquors, or other shift or devise to evade the provisions of this act, shall be held to be an unlawful selling.

§ 14. In all prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind of liquor sold, or to describe the place where sold, nor to show the knowledge of the principal, to convict for the acts of an agent or servant, and in all cases the persons to whom intoxicating liquors shall be sold in violation of this act, shall be competent witnesses.

§ 15. It shall be no objection to a recovery under this act that the offense for which the person is prosecuted, is punishable under any city, village or town ordinance.

LIENS.

AN ACT TO REVISE THE LAW IN RELATION TO LIENS.

Approved March 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That any person who shall, by contract, expressed or implied, or partly expressed and partly implied, with the owner of any lot or piece of land, furnish labor or materials, or services as an architect or superintendent in building, altering, repairing, or ornamenting any house or other building or appurtenance thereto on such lot, or upon any street or alley, and connected with such building or appurtenance, shall have a lien upon the whole of such tract of land or lot, and upon such house or building and appurtenance, for the amount due to him for such labor, material, or services.

Extent. - - - Limitation. - - - How Enforced. - - - Bill. - - - Answer.

§ 2. The lien provided for in sections one and twenty-nine of this act shall extend to an estate in fee, for life, for years, or any other estate, or any right of redemption or other interest which such owner may have in the lot or land at the time of making the contract.

§ 3. When the contract is expressed, no lien shall be created under this act, if the time stipulated for the completion of the work or furnishing materials is beyond three years from the commencement thereof, or the time of payment beyond one year from the time stipulated for the completion thereof. If the work is done or materials are furnished under an implied contract, no lien shall be had by virtue of this act, unless the work shall be done or materials be furnished within one year from the commencement of the work or delivery of the materials.

§ 4. The lien given by this act may be enforced by bill or petition in any court of record of competent jurisdiction in the county in which the land or lot, or some part thereof, lies.

§ 5. The bill or petition shall contain a brief statement of the contract on which it is founded, if expressed, or if the work is done or materials are furnished under an implied contract, the bill or petition shall so state, and shall show the amount due and unpaid, a description of the premises which are subject to the lien, and such other facts as may be necessary to a full understanding of the rights of the parties.

§ 6. Upon the filing of such bill or petition, summons shall issue and service thereof be had, as in suits in chancery.

§ 7. When any defendant resides or has gone out of the state, or on due inquiry cannot be found, or is concealed within this state, so that process cannot be served upon him, the complainant or petitioner may cause notice to be given to him in like manner and upon the same conditions as provided in suits in chancery.

§ 8. Suits instituted under the provisions of this act shall be placed upon the chancery docket, and stand for trial as other suits in chancery.

§ 9. For the purpose of bringing all parties in interest before the court, the court shall permit amendments to any part of the pleadings, and may issue process, make all orders requiring parties to appear, and requiring notice to be given, that are or may be authorized in proceedings in chancery, and shall have the same power and jurisdiction over the parties and subject; and the rules of practice and proceedings in such cases shall be the same as in other cases in chancery, except as is otherwise provided in this act.

§ 10. Defendants shall answer the bill or petition under oath, unless the oath is waived by the complainant or petitioner, and the plaintiff shall except or reply to the answer as though the proceeding was in chancery. The answer shall be regarded as the plea of the defendant, and by replication thereto an issue or issues shall be formed, which shall be tried by the court, or by a jury under the direction of the court, as the court may direct or the parties agree.

Performance of Contract. - - - Parties. - - - Incumbrances.

§ 11. When the owner of the land shall have failed to perform his part of the contract, and by reason thereof the other party shall, without his own default, have been prevented from performing his part, he shall be entitled to a reasonable compensation for as much thereof as he has performed, in proportion to the price stipulated for the whole, and the court shall adjust his claim accordingly.

§ 12. In proceedings under this act all persons interested in the subject matter of the suit, or in the premises intended to be sold, may, on application to the court wherein the suit is pending, be made or become parties at any time before final judgment.

§ 13. Parties in interest, within the meaning of this act, shall include all persons who may have any legal or equitable claim to the whole or any part of the premises upon which a lien may be attempted to be enforced under the provisions of this act.

§ 14. Upon questions arising between different creditors having liens under this act, no preference shall be given to him whose contract was first made.

§ 15. The court shall ascertain the amount due each creditor, and shall direct the application of the proceeds of sales to be made to each in proportion to their several amounts.

§ 16. Parties entitled to liens under this act, whose claims are not due or payable at the time of the commencement of suit by any other party, shall be permitted to become parties to the suit, and their claims shall be allowed, subject to a reduction of interest from the date of judgment to the time such claim is due or payable.

§ 17. No incumbrance upon land created before or after the making of a contract under the provisions of this act, shall operate upon the building erected or materials furnished, until the lien in favor of the person doing the work or furnishing the materials shall have been satisfied; and upon questions arising between previous incumbrances and creditors, the previous incumbrance shall be preferred to the extent of the value of the land at the time of making the contract, and the court shall ascertain, by jury or otherwise, as the case may require, what proportion of the proceeds of any sale shall be paid to the several parties in interest.

§ 18. Parties claiming may contest each other's rights, as well with respect to amount due, as with respect to their right to the benefit of the lien hereby created; and upon all questions made by parties, the court shall require issues of law or fact to be formed so as to bring about a speedy decision thereof.

§ 19. Any incumbrance, whether by mortgage, judgment or otherwise, charged and shown to be fraudulent in respect to creditors, may be set aside by the court, and the premises made subject to the claim of the complainant or petitioner, freed and discharged from such fraudulent incumbrance.

§ 20. In no case shall the want of preparation for trial of one claim

delay the trial in respect to others, but trial shall be had upon issues between such parties as are prepared, without reference to issues between other parties; and when one creditor shall have obtained a decree or judgment for the amount due, the court may order a sale of the premises on which the lien operates, or a part thereof, so as to satisfy the judgment: *Provided*, that the court may, for good cause shown, delay making any order of sale or distribution until the rights of all parties in interest are ascertained and settled by the court.

§ 21. Whatever right or estate such owner had in the land at the time of making the contract, may be sold, and the proceeds of sale applied according to the provisions of this act.

§ 22. If any part of the premises can be separated from the residue, and sold without damage to the whole, and if the value thereof is sufficient to satisfy all the claims proved in the cause, the court may order a sale of that part.

§ 23. The sale shall be made in the same manner as other sales of real estate under decrees in chancery.

§ 24. Upon all sales under this act, the right of redemption shall exist in favor of the same persons, and may be made in the same manner as is or may be provided for redemption of real estate from sales under judgments and executions at common law.

§ 25. If, upon making sale of any premises under this act, the proceeds of such sale shall not be sufficient to pay the claims of all parties, according to their rights, the judgment shall be credited by the amount of such sale, and execution may issue in favor of any creditor whose claim is not satisfied, for the balance due, as upon a judgment in actions of debt or assumpsit, and in case of excess of sales over the amount of judgment, such excess shall be paid to the owner of the land, or to the person who may be entitled to the same, under the direction of the court.

§ 26. Suits may be instituted under the provisions of this act, in favor of administrators or executors, and may be maintained against the representatives in interest of those against whom the cause of action accrued; and in suits instituted under the provisions of this act, the representatives of any party who may die pending the suit, shall be made parties.

§ 27. The cost of proceeding as between creditors claiming liens and the person against whom the lien is intended to be enforced, shall abide the event of the suit; and the costs, as between creditors aforesaid, in contests relative to each other's claim, shall be subject to the order of the court, and the same rule shall prevail in respect to costs growing out of proceedings against and between incumbrances.

§ 28. No creditor shall be allowed to enforce the lien created under the foregoing provisions, as against or to the prejudice of any other creditor or any incumbrance, unless suit be instituted to enforce such lien within six

months after the last payment for labor or materials shall have become due and payable.

§ 29. Every sub-contractor, mechanic, workman or other person, who shall hereafter, in pursuance of the purposes of the original contract between the owner of any lot or piece of ground, or his agent and the original contractor, perform any labor or furnish any materials in building, altering, repairing, beautifying or ornamenting any house or other building or appurtenance thereto, on such lot or on any street or alley, and connected with such building or appurtenances, shall have a lien for the value of such labor and materials upon such house or building and appurtenances, and upon the lot or land upon which the same stands, to the extent of the right, title and interest of such owner at the time of making the original contract for such house or the improvement; but the aggregate of all the liens hereby authorized shall not exceed the price stipulated in the original contract between such owner and the original contractor for such improvement. In no case shall the owner be compelled to pay a greater sum for or on account of such house, building or other improvement than the price or sum stipulated in said original contract or agreement: *Provided*, if it shall appear to the court that the owner and contractor fraudulently, and for the purpose of defrauding sub-contractors, fixed an unreasonably low price in the original contract for the erection or reparation of such building, then the court shall ascertain how much of a difference exists between a fair price for the labor or material used in said building or other improvements, and the sum named in said original contracts, said difference shall be considered a part of the contract and be subject to a lien; but in no case shall the original contractor's time or profits be secured by this lien, only so far as the sum named in the original contract or agreement.

§ 30. The person performing such labor, or furnishing such materials, shall cause a notice, in writing, to be served on such owner or his agent, substantially in the following form:

"To: You are hereby notified that I have been employed by, to (here state whether you labor or furnish material, and substantially the nature of the undertaking or demand) upon your (here state the building, and where situated, in general terms); and that I shall hold the (building, or as the case may be), and your interest in the ground liable for the amount that (is or may become) due me on account thereof.

[Date.]

[Signature.]"

§ 31. If there is a contract in writing between the original contractor and the sub-contractor, a copy of such sub-contract, if the same can be obtained, shall be served with such notice and attached thereto, which notice shall be served within forty days from the completion of such sub-contract, or within forty days after payment should have been made to the person performing such labor or furnishing such material.

Owner may Retain Funds. - - - Contractor to furnish Statement.

§ 32. In all cases where the owner cannot be found in the county in which said improvement is made, or shall not reside therein, the person furnishing labor or materials shall file said notice in the office of the clerk of the circuit court, who shall enter, in a book to be kept for that purpose, alphabetically, the names of the owners, and opposite thereto the names of the persons claiming liens, for which the clerk shall receive a fee of fifty cents. A copy of said notice shall be published in some newspaper printed in said county, for four successive weeks after filing such notice with the clerk as aforesaid. If, however, there is no paper published in said county, then the claimant of the lien shall post notices in four of the most public places in the vicinity of said improvement.

§ 33. No claim of any sub-contractor, mechanic, workman or other person, shall be a lien under section twenty-nine of this act, except so far as the owner may be indebted to the contractor at the time of giving such notice, as aforesaid, of such claim, or may become indebted afterward to him as such contractor.

§ 34. When the owner or his agent is notified as aforesaid, he may retain from any money due or to become due the original contractor, an amount sufficient to pay all demands that are or will become due such sub-contractor, mechanic, workman or other person so notifying him, and may pay over the same to the persons entitled thereto. In case there is not a sufficient amount due to such original contractor to pay such persons so entitled in full, the same shall be divided and paid to such persons *pro rata*, in proportion to the amounts due them respectively at the time of such payment. All payments so made shall, as between such owner and contractor, be considered the same as if paid to such original contractor.

§ 35. The original contractor shall, as often as requested in writing by the owner or lessee, or his agent, make out and give to him a statement of the number of persons in his employ, and sub-contractors, giving their names and the rate of wages or terms of contract, and how much, if anything, is due to them, or any of them — which statement shall be made under oath, if required.

§ 36. If any contractor shall fail to furnish such statement within five days after demand made, as aforesaid, he shall forfeit to such owner the sum of fifty dollars for every such offense, which may be recovered in an action of debt, before a justice of the peace.

§ 37. If the money due to the person giving such notice shall not be paid within ten days after service thereof, as aforesaid, or within ten days after the money shall become due and payable, and any money shall then be due from such owner to the original contractor, then such person may file his petition and enforce his lien, in the same manner as hereinbefore provided in case of original contractors; or he may sue the owner and contractor jointly for the amount due him, in any court having jurisdiction of

Judgments. -- When Several Liens. -- Stay of Proceedings. -- Bond by Contractor.

the amount claimed to be due, and a personal judgment may be rendered therein as in other cases.

§ 38. If execution issued on a judgment obtained before a justice of the peace shall be returned not satisfied, a transcript of such judgment may be taken to the circuit court, and spread upon the records thereof, and execution issued thereon as in other cases.

§ 39. If there are several liens, under section twenty-nine, upon the same premises, and the owner, or any person having such lien, shall fear that there is not a sufficient amount coming to the contractor to pay all of such liens, such owner, or any one or more persons having such lien, may file his or their sworn bill or petition in the circuit court of the proper county, stating such fact, and such other facts as may be sufficient to a full understanding of the rights of the parties. The contractor and all persons having liens upon, or who are interested in the premises, so far as the same are known to or can be ascertained by the claimant or petitioner, upon diligent inquiry, shall be made parties. Upon the hearing, the court shall find the amount coming from the owner to the contractor, and the amount due to each of the persons having liens; and in case the amount found to be coming to the contractor shall be insufficient to discharge all the liens in full, the amount so found in favor of the contractor shall be divided between the persons entitled to such liens *pro rata*, in proportion to the amounts so found due to them respectively. If the amount so found to be coming to the contractor shall be sufficient to pay such liens in full, the same shall be so ordered. The premises may be decreed to be sold for the payment of such liens as in other cases.

§ 40. All persons who shall be duly notified of such proceeding, and who shall fail to prove their claims, whether the same be in judgment against the owner or not, shall forever lose the benefit of and be precluded from their liens and all claims against the owner.

§ 41. Upon the filing of such bill or petition, the court may, on the motion of any person interested, stay any further proceedings upon any judgment against the owner on account of such lien.

§ 42. Upon entering into a contract to do any work or furnish materials for which a lien might accrue under section one of this act, if the contractor will enter into a bond with the owner, for the use of all persons who may do work or furnish materials pursuant to such contract, conditioned for the payment of all just claims for such work or materials as they become due (which bond shall be in such an amount, not less than the price agreed to be paid for the performance of such contract, and with such surety as shall be approved by the judge of the circuit court, or a master in chancery of said court), and shall file the same in the office of the clerk of said court, then no lien shall attach in favor of such sub-contractor, mechanic or other person.

§ 43. A like bond may be made and filed, as provided in the foregoing

Failure to Complete Contract. - - - Hotel Keepers, etc., may Lien.

section, at any time after the making of such contract, and shall have the effect to discharge all such liens as shall have accrued before the filing thereof, and to prevent the accruing of any such liens thereafter.

§ 44. Any person having a claim against such contractor for work done or materials furnished pursuant to such contract, may put the said bond in suit for his use, or in case the same shall have been put in suit, have his damages assessed as in other suits upon penal bonds.

§ 45. Should the original contractor, for any cause, fail to complete his contract, any person entitled to a lien as aforesaid may file his petition in any court of record, against the owner and contractor, setting forth the nature of his claim, the amount due, as near as may be, and the names of the parties employed on such house or other improvement subject to liens; and notice of such suit shall be served on the persons therein named; and such as shall appear shall have their claims adjudicated, and decrees shall be entered against the owner and original contractor for so much as the work and materials shall be shown to be reasonably worth according to the original contract price, first deducting so much as shall have been rightfully paid on said original contract by the owner, and damages, if any, that may be found to be occasioned the owner by reason of the non-fulfillment of the original contract, the balance to be divided between such claimants in proportion to their respective interests, to be ascertained by the court. The premises may be sold as in other cases under this act.

§ 46. No payments to the original contractor or to his order shall be regarded as rightfully made, if made in violation of the rights and interests of the persons intended to be benefited by this act.

§ 47. No petition shall be filed or suit commenced to enforce the lien created by section twenty-nine, unless the same is commenced within three months from the time of the performance of the sub-contract, or during the work or furnishing materials as aforesaid: *Provided*, if any delay in filing such petition or commencing suit is caused in consequence of the amount not being due the original contractor, the time of such delay shall not be reckoned.

§ 48. Hotel, inn and boarding-house keepers shall have a lien upon the baggage and other valuables of their guests or boarders brought into such hotel, inn or boarding-house by such guests or boarders, for the proper charges due from such guests or boarders for their accommodations, boarding and lodging, and such extras as are furnished at their request.

§ 49. Stable keepers and any persons shall have a lien upon the horses, carriages and harness kept by them for the proper charges due for the keeping thereof, and expenses bestowed thereon at the request of the owner, or person having the possession thereof.

§ 50. Agisters and persons keeping, yarding, feeding or pasturing domestic animals, shall have a lien upon the animals agistered, kept, yarded or fed,

for the proper charges due for the agistering, keeping, yarding or feeding thereof.

§ 51. Chapter sixty-five of the Revised Statutes of 1845, entitled "Liens," and an act entitled "An act to amend Chapter sixty-five of the Revised Statutes of 1845, entitled 'Liens,'" approved February 18, 1861, and an act entitled "An act to amend Chapter sixty-five of the Revised Statutes of 1845, entitled 'Liens,'" approved February 14, 1863, and an act entitled "An act to provide for the redemption of property sold under mechanics' lien," approved March 30, 1869, and an act entitled "An act amendatory of the mechanics' lien law of this State," approved April 5, 1869, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

MANDAMUS.

AN ACT TO REVISE THE LAW IN RELATION TO MANDAMUS.

Approved February 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That upon the filing of a petition for a *mandamus* the clerk of the court shall issue a summons in like form as other summons in suit at law, commanding the defendant to appear at the return term thereof, and show cause why a writ of *mandamus* should not be issued against him. If the summons is issued in vacation, it shall be returnable on the first day of the next term, or if in term time, it may be made returnable on any day of the term not less than five days after the date of the writ.

§ 2. Every defendant who shall be served with summons, shall be held to show cause by answer to the petition, or to demur thereto, on the return day of the summons, or within such further time as may be allowed by the court; and in default thereof, judgment may be taken *nil dicit*, and a peremptory *mandamus* shall be allowed against the defendant.

§ 3. The court in which any such petition is filed, may allow the petitioner or any defendant such convenient time to answer, plead, reply, rejoin or demur as shall be deemed just and equitable.

§ 4. The petitioner may plead to or traverse all or any of the material facts contained in the answer, or demur thereto, to which the defendant shall reply, take issue or demur, and like proceedings shall be had as in other cases at law.

§ 5. If a verdict is found for the petitioner, or judgment is given for

him upon demurrer, *nil dicit*, or for want of an answer or other pleading, he shall recover his damages and costs, and a peremptory writ of *mandamus* shall be granted. If judgment is given for defendant, he shall recover his costs.

§ 6. If damages are recovered against the defendant, he shall not be ble to be sued in any other action or suit as for making a false return.

§ 7. If, after the filing of any such petition, any other person than the original defendant shall appear to the court to have or claim any right or interest in the subject matter, such person may be made a defendant, and may be summoned, and appear and plead, answer and demur in the same manner as if he had been made defendant to the original petition.

§ 8. The death, resignation or removal from office, by lapse of time or otherwise, of any defendant, shall not have the effect to abate the suit, but his successor may be made a party thereto, and any peremptory writ may be directed against him.

§ 9. The proceedings for a writ of *mandamus* shall not be dismissed nor the writ denied because the petitioner may have another specific legal remedy, where such writ will afford a proper and sufficient remedy; and amendments may be allowed as in other civil suits.

§ 10. Appeals and writs of error may be taken and prosecuted in the same manner, upon the same terms, and with like effect as in other civil cases.

MARRIAGES.

AN ACT TO REVISE THE LAW IN RELATION TO MARRIAGES.

Approved February 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That marriages between parents and children, including grand-parents and grand-children of every degree, between brothers and sisters of the half as well as of the whole blood, and between uncles and nieces, aunts and nephews, are declared to be incestuous and void. This section shall extend to illegitimate as well as legitimate children and relations.

§ 2. No insane person or idiot shall be capable of contracting marriage.

§ 3. Male persons over the age of seventeen years, and females over the age of fourteen years, may contract and be joined in marriage.

§ 4. Marriages may be celebrated either by a minister of the gospel in regular standing in the church or society to which he belongs; by a judge of any court of record, or a justice of the peace.

§ 5. All persons belonging to any religious society, church or denomina-

tion, may celebrate their marriage according to the rules and principles of such religious society, church or denomination.

§ 6. Persons intending to be joined in marriage shall, before their marriage, obtain a license from the county clerk of the county where such marriage is to take place, or shall cause their intention to marry to be published, at least two weeks previous to the marriage, in the church or congregation to which the parties or one of them belongs.

§ 7. The license shall be substantially in the following form :

STATE OF ILLINOIS, } ss.
 ----- County, }

"Marriage may be celebrated between A B, of -----, in the county of -----, and state of -----, of the age of ----- years, and C D, of -----, in the county of -----, and state of -----, of the age of ----- years, (if the man is under the age of twenty-one years, or the woman under eighteen years of age), add the following: the father, (or mother, or guardian, as the case may be), of the said A B and C D, (or A B or C D, as the case may require,) having given his (or her) assent to said marriage.

"Witness, -----, county clerk, and the seal of said county."

§ 8. For the purpose of ascertaining the ages of the parties, the county clerk may examine either of them, or any other witness, under oath.

§ 9. The minister, judge or justice of the peace, or if the marriage is celebrated according to the rules and principles of a religious society, church or denomination, and there be no minister, then the clerk or secretary of such society, church or denomination shall, within thirty days after such marriage is solemnized, make a certificate thereof, and return the same together with the license, if one has been issued, to the clerk of the county in which the marriage took place, or to his successor in office.

§ 10. The certificate may be substantially in the following form :

STATE OF ILLINOIS, } ss.
 ----- County, }

"I, E F, a justice of the peace (or as the case may be), hereby certify that A B and C D, were united in marriage by me, at -----, in the county of -----, and state of -----, on the, ----- day of -----, A. D. -----

-----"

§ 11. The county clerk, upon receiving such certificate, shall make a registry thereof in a book to be kept in his office for that purpose only; which registry shall contain the christian and surnames of the parties, the time of their marriage, and the name of the person certifying the same; he shall also at the same time indorse on such certificate the time when the same is registered, and shall number and carefully preserve the same.

§ 12. Such certificate or a copy of the same, or of the entry in such registry, certified by the county clerk, under the seal of the county, shall be received as evidence of the marriage of the parties as therein stated.

Penalty for Issuing License to Minors, or Marrying Without.

§ 13. If any county clerk shall issue a license for the marriage of a man under the age of twenty-one years, or of a woman under the age of eighteen years, without the consent of his or her father, (or if he is dead or incapable, or not residing with his family, of his or her mother or guardian if he or she have one, first had thereto) he shall forfeit and pay the sum of three hundred dollars for each offense, to be recovered by such father, mother or guardian, in an action of debt, in any court of competent jurisdiction.

§ 14. If any county clerk shall refuse or neglect to register and file any marriage certificate according to law, for more than thirty days after the same is returned to him for that purpose (his fees therefor being paid) he shall forfeit and pay one hundred dollars, to be recovered by the party injured, in an action of debt, in any court of competent jurisdiction.

§ 15. If any minister, judge or justice of the peace, or any other officer or person or persons shall celebrate a marriage without a license having been first obtained therefor as provided by law, he or they shall for every such offense forfeit and pay one hundred dollars, to be recovered in the name of the People of the State, in an action of debt, in any court of competent jurisdiction: *Provided*, this section shall not apply where the intention of the parties to marry has been published, as required in section six of this act.

§ 16. If any minister, judge, or justice of the peace having celebrated a marriage, or any clerk or secretary of any society, church or denomination among whom a marriage is celebrated, and whose duty it shall be to make and return a certificate of such marriage, shall fail to make and return to the county clerk such certificate in the time and manner provided by law, he shall forfeit and pay one hundred dollars, to be recovered in the name of the People of the State of Illinois, in an action of debt, in any court of competent jurisdiction.

§ 17. It shall be the duty of the state's attorney of the proper county to prosecute all offenses under the two preceding sections.

§ 18. Chapter sixty-nine of the Revised Statutes of 1845, entitled "Marriages," and an act entitled "An act to amend the law in relation to marriages," approved February 16, 1847, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

MORTGAGES.

AN ACT TO REVISE THE LAW IN RELATION TO MORTGAGES OF REAL AND PERSONAL PROPERTY.

Approved March 26, 1874. In force July 1, 1874.

CHATTEL MORTGAGES.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* no mortgage, trust deed or other conveyance of personal property having the effect of a mortgage or lien upon such property, shall be valid as against the rights and interests of any third person, unless possession thereof shall be delivered to and remain with the grantee, or the instrument shall provide for the possession of the property to remain with the grantor, and the instrument is acknowledged and recorded as hereinafter directed; and every such instrument shall, for the purposes of this act, be deemed a chattel mortgage.

§ 2. Such instrument may be acknowledged before a justice of the peace of the town, or district where the mortgagor resides; or if the mortgagor is not a resident of this state at the time of making the acknowledgment, then before any officer authorized by law to take acknowledgments of deeds. The certificate of acknowledgment may be in the following form:

"This (name of instrument) was acknowledged before me by (name of grantor); (when the acknowledgment is by a resident, insert the words: 'and entered by me') this day of, 18....

"Witness my hand and seal.

..... (name of officer.) (seal.)

§ 3. If the acknowledgment is of a resident of this state, the justice of the peace shall enter in his docket a memorandum thereof, substantially as follows:

"A B (name of mortgagor) } Mortgage of (here insert description of
to } the property as in the mortgage.)
"C D (name of mortgagee) }

"Acknowledged this day of, 18....

§ 4. Such mortgage, trust deed or other conveyance of personal property acknowledged as provided in this act, shall be admitted to record by the recorder of the county in which the mortgagor shall reside at the time when the instrument is executed and recorded; or in case the mortgagor is not a resident of this state, then in the county where the property is situated and kept; and shall thereupon, if *bona fide*, be good and valid from the time it is filed for record until the maturity of the entire debt or obligation: *Provided*, such time shall not exceed two years.

Release of Mortgages on Real or Personal Property.

§ 5. A copy of any such instrument made, acknowledged and recorded as aforesaid, certified by the proper recorder from the record thereof, may be read in evidence in like cases, and upon the same conditions as copies of deeds and conveyances of land, so certified.

§ 6. Any person having so conveyed any personal property who shall, during the existence of the title or lien created by such instrument, sell the same or any part thereof to another person for a valuable consideration, without informing him of the existence of such conveyance, shall forfeit and pay to the purchaser twice the value of the property so sold, which sum may be recovered by such purchaser in an action of debt in any court of competent jurisdiction, or before a justice of the peace, if within his jurisdiction.

§ 7. Any person having so conveyed any personal property who shall, during the existence of such title or lien, sell, transfer, conceal, take, drive or carry away, or in any manner dispose of such property or any part thereof, or cause or suffer the same to be done without the written consent of the holder of such incumbrance, shall be guilty of a misdemeanor, and on conviction may be fined in a sum not exceeding twice the value of the property so sold or disposed of, or confined in the county jail not exceeding one year, or both, at the discretion of the court.

RELEASE OF MORTGAGES OF REAL OR PERSONAL PROPERTY.

§ 8. Every mortgagee of real or personal property, his assignee of record or other legal representative, having received full satisfaction and payment of all such sum or sums of money as are really due to him from the mortgagor shall, at the request of the mortgagor, his heirs, legal representatives or assigns, enter satisfaction upon the margin of the record of such mortgage in the recorder's office, which shall forever thereafter discharge and release the same, and shall bar all actions or suits brought or to be brought thereupon; all releases of mortgages and deeds of trust which have heretofore been made in accordance with the provisions of this section shall be held legal and valid and have the same force and effect as if made under the provisions of this act.

§ 9. A mortgage or trust deed of real or personal property may be released by an instrument in writing executed by the mortgagee, trustee or his executor, administrator, heirs or assignee of record, and such instrument may be acknowledged or proved in the same manner as deeds for the conveyance of land.

§ 10. If any mortgagee or trustee, in a trust deed in the nature of a mortgage, of real or personal property, or his executor or administrator, heirs or assigns, knowing the same to be paid, shall not within one month after the payment of the debt secured by such mortgage or trust deed, and request and tender of his reasonable charges, release the same, he shall, for every such offense, forfeit and pay to the party aggrieved the sum of fifty dollars, to be recovered in an action of debt before a justice of the peace.

MORTGAGE SALE OF REAL OR PERSONAL PROPERTY BY SHERIFF.

§ 11. It shall be lawful for the mortgagor of real estate or personal property, to insert in his mortgage a clause authorizing the sheriff of the county in which the property, or some part thereof, is situated, to execute the power of sale therein granted to the mortgagee or his assigns or legal representatives, in which case the sheriff, at the time of such sale, of such county may advertise and sell the mortgaged premises pursuant to such power, and may execute all proper conveyances of the property so sold, in the name of and as the attorney in fact of the mortgagor; and at any sale made as aforesaid, the mortgagee, his assigns or legal representatives, may fairly and in good faith purchase the property, or any part thereof.

MORTGAGE OF REAL ESTATE.

§ 12. Every deed conveying real estate, which shall appear to have been intended only as a security in the nature of a mortgage, though it be an absolute conveyance in terms, shall be considered as a mortgage.

FORECLOSURE OF REAL ESTATE MORTGAGES.

§ 13. In case of the death of the grantor in any mortgage or trust deed in the nature of a mortgage, such grantor being at the time of his decease the owner of the equity of redemption of the premises so granted, or in case of the death of any person owning the equity of redemption of any premises mortgaged or conveyed in trust as a security for money, no sale shall be made by virtue of any power of sale contained in such mortgage or trust deed, or given in relation thereto; but the same may be foreclosed in the same manner as mortgages not containing power of sale may now be foreclosed at law or in chancery.

§ 14. In all sales of real estate under a mortgage or trust deed, in the nature of a mortgage, executed after the taking effect of this act, which may be made pursuant to a power of sale, at least thirty days' previous notice of such intended sale shall be given, whether so specified in the power of sale or not. It shall be sufficient to insert in such notice the date of the instrument, names of the grantor and grantee, and of the assigns, if any, the amount of indebtedness the instrument was given to secure, the amount claimed to be due, a description of the premises to be sold, and the time, place, and terms of the sale; and no sale shall be made except in the county in which the premises are situated. The notice shall be given by publication once in each week, for four successive weeks, in some newspaper or other paper authorized by law to publish legal notices, published in the county or counties where the premises are situated, or if no paper is published in such county, the nearest newspaper published in this state; but in no case shall a notice be given for a shorter time than is required by the mortgage or deed of trust.

Decrees. — — — Foreclosure by *Scire Facias*.

And in no case shall the mortgagee, trustee, or the person making the sale, be entitled to charge as costs of advertisement more than the actual costs necessarily expended in giving notice as herein required.

§ 15. A recital in a deed made in pursuance of a power contained in a mortgage or deed of trust, that due notice of the sale had been given, shall be *prima facie* evidence of the giving of such notice.

§ 16. In all decrees hereafter to be made in suits in equity directing foreclosure of mortgages, a decree may be rendered for any balance of money that may be found due to the complainant over and above the proceeds of the sale or sales, and execution may issue for the collection of such balance, the same as when the decree is solely for the payment of money. And such decree may be rendered conditionally, at the time of decreeing the foreclosure, or it may be rendered after the sale and the ascertainment of the balance due: *Provided*, that such execution shall issue only in cases where personal service shall have been had upon the defendant or defendants personally liable for the mortgage debt, unless their appearance shall be entered in such suits.

FORECLOSURE OF MORTGAGE BY SCIRE FACIAS.

§ 17. If default be made in the payment of any sum of money secured by mortgage on lands and tenements, duly executed and recorded, and if the payment be by installments, and the last shall have become due, it shall be lawful for the mortgagee, his assigns, or his or their executors or administrators, to sue out a writ of *scire facias* from the clerk's office of the circuit court of the county in which the said mortgaged premises may be situated, or any part thereof, directed to the sheriff or other proper officer of any county or counties where the defendants, or any of them, may reside or be found, requiring him to make known to the mortgagor, or, if he be dead, to his heirs, executors or administrators, to show cause, if any they have, why judgment should not be rendered for such sum of money as may be due, by virtue of said mortgage; and upon the appearance of the party named as a defendant in said writ of *scire facias*, the court may proceed to judgment as in other cases, but if said *scire facias* be returned *nihil*, or that the defendant is not found, an alias *scire facias* may be issued.

§ 18. If a defendant is a non-resident, or hath gone out of the state, or on due inquiry cannot be found, or is concealed within the state, or evades the service of process, the plaintiff or his attorney may file affidavit in the same form as in like cases in chancery, and notice may be given as in such case.

§ 19. If the defendant appear and plead or set up any defense, or make default after having been served with *scire facias* or notified as aforesaid, the court may proceed to give judgment, with costs, for such sum as may be due by said mortgage, or appear to be due by the pleadings, or after the defense, if any be made.

No Execut. - - - When Writs may be Granted.

§ 20. The defendant may plead or set off any defense, and be allowed to set off a demand in his favor, in the same manner, and the same rules shall apply thereto, as if the suit were in any other form of action.

§ 21. The mortgaged premises may be sold to satisfy any judgment the plaintiff in such action may recover, and the court may award a special writ of *feri facias* for that purpose, to the county or counties in which said mortgaged premises may be situate, and on which the like proceedings may be had as in other cases of execution levied upon real estate: *Provided, however,* that the judgment aforesaid shall create no lien on any other lands or tenements than the mortgaged premises, nor shall any other real or personal property of the mortgagor be liable to satisfy the same; but nothing herein contained shall be so construed as to affect any collateral security given by the mortgagor for the payment of the same sum of money, or any part thereof, secured by the mortgage deed.

§ 22. Chapter twenty, of the Revised Statutes of 1845, entitled "Chattel Mortgages;" and an act entitled "An act to amend chapter twenty, of the Revised Statutes of 1845, entitled 'Chattel Mortgages,'" approved February 12, 1861; and an act entitled "An act to amend an act entitled 'An act to amend chapter twenty-four, of the Revised Code of 1845, entitled 'Conveyances,'" approved February 21, 1861, approved March 27, 1869; and an act entitled "An act for the releasing of trust deeds in the nature of mortgages," approved February 25, 1867; and an act entitled "An act to protect widows and orphans from the sacrifice of their property by sales upon mortgages and trust deeds," approved March 30, 1869; and section twelve, of chapter twenty-four, of the Revised Statutes of 1845, entitled "Conveyances," and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided,* that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

NE EXEAT.

AN ACT TO REVISE THE LAW IN RELATION TO NE EXEAT.

Approved March 12, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That writs of *ne exeat republica* may hereafter be granted, as well in cases where the debt or demand is not actually due, but exists fairly and *bona fide* in expectance at the time of making application, as in cases where the demand is due; and it shall not be necessary, to authorize the granting of such writ of *ne exeat*, that the applicant should

When Writs may be Granted, and by Whom.

show that his debt or demand is purely of an equitable character, and only cognizable before a court of equity.

§ 2. In case of joint, or joint and several obligors or debtors, if one or more of them be about to remove without the jurisdictional limits of this state, taking their property with them, leaving one or more co-obligors or co-debtors bound with them for the payment of any sum of money, or for the delivery of any article of property, or for the conveyance of land at a certain time, which time shall not have arrived at the time of such intended removal, such co-obligor or co-debtor who remains shall be entitled, upon application, to a writ of *ne exeat*, to compel the co-obligor or co-debtor who is about to remove to secure the payment of his part of the sum to be paid, or of the delivery of the property, or to convey, or to join in the conveyance of the land. Also, in cases of security, the writ of *ne exeat* may issue, on application of a security, against the principal or co-security, when the obligation or debt shall not be yet due, and the principal or co-security is about removing out of the state.

§ 3. The superior court of Cook county, and the circuit courts in term time, and any judge thereof in vacation, shall have power to grant writs of *ne exeat*.

§ 4. When no judge authorized to issue writs of *ne exeat* is present in the county, or being present, is unable or incapacitated to act, a master in chancery in such county may order the issuing of such writs.

§ 5. No writ of *ne exeat* shall be granted but upon bill or petition filed, and affidavit to the truth of the allegations therein contained. Upon the granting of any such writ, the court, judge or master shall indorse or cause to be indorsed upon the bill or petition, in what penalty, bond and security shall be required of the defendant. Said court, judge or master shall also take or cause to be taken of the complainant, before the writ shall issue, bond with good and sufficient surety, in such sum as the court, judge or master shall deem proper, conditioned that the said complainant will prosecute his bill or petition with effect, and that he will reimburse to the defendant such damages and costs as he shall wrongfully sustain by occasion of the said writ. If any defendant to such writ of *ne exeat* shall think himself aggrieved, he may bring suit on such bond; and if, on trial, it shall appear that such writ of *ne exeat* was prayed for without a just cause, the person injured shall recover damages, to be assessed as in other cases on penal bonds.

§ 6. When a writ of *ne exeat* is granted by a judge or master in vacation, he shall direct the clerk of the court to which the writ is to be returnable to issue the same.

§ 7. All writs of *ne exeat* shall be returnable into the court out of which they issue.

§ 8. This writ of *ne exeat* shall contain a summons for the defendant to appear in the proper court, and answer the petition or bill, and upon the writ being served upon the said defendant, he shall give bond, with surety in

Negotiable Instruments. - - - Dishonored. - - - Costs.

the sum indorsed on such writ, conditioned that he will not depart the state without leave of the said court, and that he will render himself in execution to answer any judgment or decree which the said court may render against him; and in default of giving such security, he may be committed to jail, as in other cases, for the want of bail. No temporary departure from the state shall be considered as a breach of the condition of the said bond, if he shall return before personal appearance shall be necessary to answer or perform any judgment, order or decree of said court.

§ 9. The surety in any bond for the defendant, as aforesaid, may, at any time before the said bond shall be forfeited, surrender the said defendant, in exoneration of himself, in the same manner that bail may surrender their principal, and obtain the same discharge.

§ 10. On the return of the writ of *ne exeat*, if the same shall have been duly served, the court shall proceed therein as in other cases in chancery, if the time of performance of the duty or obligation of the defendant has expired; if not, then the proceedings shall be stayed until it has expired.

§ 11. Nothing contained in the preceding section shall prevent the court from proceeding at any time to determine whether the writ ought not to be quashed or set aside.

NEGOTIABLE INSTRUMENTS.

AN ACT TO REVISE THE LAW IN RELATION TO PROMISSORY NOTES, BONDS, DUE BILLS AND OTHER INSTRUMENTS IN WRITING.

Approved March 18, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That whenever any bill of exchange drawn or indorsed within this state, and payable without the limits of the United States, is duly protested for non-acceptance or non-payment, the drawer or indorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill, with legal interest from the time such bill ought to have been paid until paid, and ten per cent. damages in addition, together with the costs and charges of protest.

§ 2. If any bill of exchange drawn upon any person, or body politic or corporate, out of this state, but within the United States or their territories, for the payment of money, shall be duly presented for acceptance or payment, and protested for non-acceptance or non-payment, the drawer or indorser thereof, due notice being given of such non-acceptance or non-payment, shall pay said bill with legal interest from the time such bill ought to have been paid until paid, together with costs and charges of protest, and

Assignment. - - - Liability. - - - Diligence. - - - Indorsers.

in case suit has to be brought on such bill of exchange, five per cent. damages in addition.

§ 3. All promissory notes, bonds, due bills and other instruments in writing, made or to be made by any person, body politic or corporate, whereby such person promises or agrees to pay any sum of money or articles of personal property, or any sum of money in personal property, or acknowledges any sum of money or article of personal property to be due to any other person, shall be taken to be due and payable, and the sum of money or article of personal property therein mentioned shall, by virtue thereof, be due and payable as therein expressed.

§ 4. Any such note, bond, bill or other instrument in writing, made payable to any person named as payee therein, shall be assignable, by indorsement thereon, under the hand of such person, and of his assignees, in the same manner as bills of exchange are, so as absolutely to transfer and vest the property thereof in each and every assignee successively.

§ 5. Any assignee to whom such sum of money or personal property is, by such indorsement or indorsements, made payable, or in case of the death of such assignee, his executor or administrator, may, in his own name, institute and maintain the same kind of action for the recovery thereof, against the person who made and executed such note, bond, bill or other instrument in writing, or against his heirs, executors or administrators, as might have been maintained against him by the obligee or payee, in case the same had not been assigned; and in every such action, in which judgment shall be given for the plaintiff, he shall recover his damages and costs of suit, as in other cases.

§ 6. No maker of any such note, bond, bill, or other instrument in writing, or other person liable thereon, shall be allowed to allege payment to the payee, made after notice of assignment, as a defense against the assignee.

§ 7. Every assignor, or his heirs, executors or administrators, of every such note, bond, bill or other instrument in writing, shall be liable to the action of the assignee thereof, or his executors or administrators, if such assignee shall have used due diligence, by the institution and prosecution of a suit against the maker thereof, or against his heirs, executors or administrators, for the recovery of the money or property due thereon, or damages in lieu thereof: *Provided*, that if the institution of such suit would have been unavailing, or the maker had absconded, or resided without, or had left the state, when such instrument became due, such assignee, or his executors or administrators, may recover against the assignor, or against his heirs, executors or administrators, as if due diligence by suit had been used.

§ 8. Any note, bond, bill or other instrument in writing, made payable to bearer, may be transferred by delivery thereof, and an action may be maintained thereon in the name of the holder thereof. Every indorser of

any instrument mentioned in this section shall be held as a guarantor of payment, unless otherwise expressed in the indorsement.

§ 9. In any action upon a note, bond, bill or other instrument in writing, for the payment of money or property, or the performance of covenants or conditions, if such instrument was made or entered into without a good or valuable consideration, or, if the consideration upon which it was made or entered into has wholly or in part failed, it shall be lawful for the defendant to plead such want of consideration, or that the consideration has wholly or in part failed; and if it shall appear that such instrument was made or entered into without a good or valuable consideration, or that the consideration has wholly failed, the verdict shall be for the defendant; and if it shall appear that the consideration has failed in part, the plaintiff shall recover according to the equity of the case: *Provided*, that nothing in this section contained shall be construed to affect or impair the right of any *bona fide* assignee of any instrument made assignable by this act, when such assignment was made before such instrument became due.

§ 10. If any fraud or circumvention be used in obtaining the making or executing of any of the instruments aforesaid, such fraud or circumvention may be pleaded in bar to any action to be brought on any such instrument so obtained, whether such action be brought by the party committing such fraud or circumvention, or any assignee of such instrument.

§ 11. If any such note, bond, bill or other instrument, in writing, shall be indorsed after the same becomes due, and any indorsee shall institute an action thereon against the maker of the same, the defendant being maker shall be allowed to set up the same defense that he might have done had the action been instituted in the name and for the use of the person to whom such instrument was originally made payable, or any intermediate holder.

§ 12. In any action upon a note, bond, bill or other instrument in writing, which has been assigned to or transferred by delivery to the plaintiff after it became due, a set-off to the amount of the plaintiff's debt may be made of a demand existing against any person or persons who shall have assigned or transferred such instrument after it became due, if the demand be such as might have been set off against the assignor, while the note or bill belonged to him.

§ 13. If any such note, bond, bill or other instrument of writing shall be assigned before the day the money or property therein mentioned becomes due and payable, and the assignee shall institute an action thereon, the defendant may give in evidence at the trial any money or property actually paid on the said note, bond, bill or other instrument in writing before the said note, bond, bill or other instrument in writing was assigned to the plaintiff, on proving that the plaintiff had sufficient notice of the said payment before he accepted or received such assignment.

§ 14. In any action founded upon any note, bond, bill or other instrument in writing, or in which the same, if produced, might be allowed as a

Days of Grace. - - - Computation of Time. - - - Legal Holidays.

set-off in defense, if it shall appear that such instrument was lost while belonging to the party claiming the amount due thereon, to entitle him to recover upon or set off the same, he may in the discretion of the court be required to execute a bond to the adverse party in a penalty at least double the amount of such note, bill or instrument, with sufficient security, to be approved by the court in which the action is pending, conditioned to indemnify the adverse party, his heirs, executors and administrators, against all claims by any other person on account of such instrument, and against all costs and expenses by reason thereof.

§ 15. No promissory note, check, draft, bill of exchange, order, or other negotiable or commercial instrument, payable at sight, or on demand, or on presentment, shall be entitled to days of grace, but shall be absolutely payable on presentment. All other bills of exchange, drafts, or promissory notes, shall be entitled to the usual days of grace.

§ 16. In all computations of time, and of interest and discounts, a month shall be considered to mean a calendar month, and a year shall consist of twelve calendar months; and in computations of interest or discounts for any number of days less than a month, a day shall be considered a thirtieth part of a month, and interests or discounts shall be computed for such fractional parts of a month upon the ratio which such number of days shall bear to thirty.

§ 17. The following days, to-wit: The first day of January, commonly called new year's day; the fourth day of July, and the twenty-fifth day of December, commonly called christmas day, and any day appointed or recommended by the governor of this state, or the president of the United States, as a day of fast or thanksgiving, shall for all purposes whatsoever, as regards the presenting for payment or acceptance, the maturity and protesting and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, or other negotiable or commercial paper or instruments, be treated and considered as is the first day of the week, commonly called Sunday; and all notes, bills, drafts, checks or other evidence of indebtedness, falling due or maturing on either of said days, shall be deemed as due or having matured on the day previous; and should two or more of those days come together, or immediately succeeding each other, then such instruments, paper, or indebtedness shall be deemed as due or having matured on the day previous to the first of said days.

Who may Administer Oaths. - - - How. - - - Penalty.

OATHS AND AFFIRMATIONS.

AN ACT TO REVISE THE LAW IN RELATION TO OATHS AND AFFIRMATIONS.

Approved February 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That all courts now established, or that may hereafter be established, and each judge, justice, master in chancery, and clerk thereof, and all justices of the peace, police magistrates and notaries public, shall have power to administer oaths and affirmations to witnesses and others, concerning anything commenced or to be commenced, or depending before them respectively.

§ 2. All courts, the judges, justices, masters in chancery, and the clerks thereof, the secretary of state, justices of the peace, police magistrates and notaries public, shall have power in their respective districts, circuits, counties or jurisdictions, to administer all oaths of office and all other oaths authorized or required of any officer or other person, and to take affidavits and depositions concerning any matter or thing, process or proceeding commenced or to be commenced, or depending in any court or before any justice of the peace, or on any occasion wherein any affidavit or deposition is authorized or required by law to be taken.

§ 3. Whenever any person shall be required to take an oath before he enters upon the discharge of any office, place or business, or on any other lawful occasion, it shall be lawful for any person empowered to administer the oath to administer it in the following form, to wit: The person swearing shall, with his hand uplifted, swear by the ever-living God; and shall not be compelled to lay the hand on or kiss the gospels.

§ 4. Whenever any person required to take or subscribe an oath, as aforesaid, and in all cases where an oath is upon any lawful occasion to be administered, and such person shall have conscientious scruples against taking an oath, he shall be admitted, instead of taking an oath, to make his solemn affirmation or declaration in the following form, to-wit: You do solemnly, sincerely and truly declare and affirm; which solemn affirmation or declaration shall be equally valid as if such person had taken an oath in the usual form; and every person guilty of falsely and corruptly declaring, as aforesaid, shall incur and suffer the like pains and penalties as are or shall be inflicted on persons convicted of willful and corrupt perjury.

§ 5. All oaths, affirmations, affidavits and depositions administered or taken as provided in this act, shall subject any person who shall so swear or affirm willfully and falsely, in matter material to any issue or point in question, to the like pains and penalties as are inflicted by law on persons convicted of willful and corrupt perjury.

Charging Jury. — — Suits, Where Commenced.

§ 6. When any oath authorized or required by law to be made is made out of the state, it may be administered by any officer authorized by the laws of the state in which it is so administered, and if such officer have a seal, his certificate under his official seal, shall be received as *prima facie* evidence without further proof of his authority to administer oaths.

PRACTICE.

AN ACT TO AMEND SECTION FIFTY-ONE OF AN ACT ENTITLED "AN ACT IN REGARD TO PRACTICE IN COURTS OF RECORD."

Approved January 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* section fifty-one of an act entitled "An act in regard to practice in courts of record," approved February 22, 1872, be so amended as to read as follows :

"§ 51. The court in charging the jury shall only instruct as to the law of the case."

AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN REGARD TO PRACTICE IN COURTS OF RECORD."

Approved February 12, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* section two (2) of an act approved February 22, 1872, entitled "An act in regard to practice in courts of record," be and the same is hereby amended to read as follows :

"§ 2. It shall not be lawful for any plaintiff to sue any defendant, out of the county, where the latter resides or may be found, except in local actions, and except that in every species of personal actions in law, when there is more than one defendant, the plaintiff commencing his action where either of them resides may have his writ or writs issued, directed to any county or counties where the other defendant, or either of them, may be found: *Provided*, that if a verdict shall not be found, or judgment rendered against the defendant or defendants, resident in the county where the action is commenced, judgment shall not be rendered against those defendants who do not reside in the county, unless they appear and defend the action. Actions against a railroad company may be brought in the county where its principal office is located, or in the county where the cause of action accrued, or in any county into or through which its road may run."

Judgment on Default. - - - *Quo Warranto.* - - - Illegal Acts.

AN ACT TO AMEND SECTION FORTY OF AN ACT ENTITLED "AN ACT IN REGARD TO PRACTICE IN COURTS OF RECORD," APPROVED FEBRUARY 22, 1872.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section forty of an act entitled "An act in regard to practice in courts of record," be and the same is hereby amended so as to read as follows:

"In all suits in the courts of record in this state upon default, when the damages are to be assessed, it shall be lawful for the court to hear the evidence and assess the damages without a jury for that purpose. In all cases where interlocutory judgment shall be given in any action brought upon a penal bond, or upon any instrument of writing, for the payment of money only, and the damages rest in computation, the court may refer it to the clerk, to assess and report the damages, and may enter judgment therefor: *Provided,* that either party may have the damages assessed by a jury."

QUO WARRANTO.

AN ACT TO REVISE THE LAW IN RELATION TO QUO WARRANTO.

Approved March 23, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That in case any person shall usurp, intrude into or unlawfully hold or execute any office or franchise, or any office in any corporation created by the authority of this state, or any public officer shall have done or suffered any act which, by the provisions of law, works a forfeiture of his office, or any association or number of persons shall act within this state as a corporation without being legally incorporated, or any incorporation does or omits any act which amounts to a surrender or forfeiture of its rights and privileges as a corporation, or exercises powers not conferred by law, or if any railroad company doing business in this state shall charge an extortionate rate for the transportation of any freight or passenger, or shall make any unjust discrimination in the rate of freight or passenger tariff over or upon its railroad, the attorney-general or state's attorney of the proper county, either of his own accord or at the instance of any individual relator, may present a petition to any court of record of competent jurisdiction, or any judge thereof in vacation, for leave to file an information in the nature of a *quo warranto*, in the name of the People of the State of Illinois; and if such court or judge shall be satisfied that there is probable ground for the

Summons. - - - Pleading. - - - Judgment. - - - Ouster. - - - Fine.

proceeding, the court or judge may grant the petition, and order the information to be filed and process to issue. When it appears to the court or judge that the several rights of divers parties to the same office or franchise may properly be determined on one information, the court or judge may give leave to join all of such persons in the same information, in order to try their respective rights to such office or franchise.

§ 2. On the filing of such information, the clerk of the court shall issue a summons in like form as other summons, commanding the defendant to appear at the return term thereof, to answer the relator in an information in the nature of a *quo warranto*. If the information is filed in vacation, the summons shall be made returnable on the first day of the next succeeding term; if in term time, it may be made returnable on any day of the same term, not less than five days after the date of the writ, as shall be directed by the court.

§ 3. The summons may be served in the same manner as other summons in suits at law, but if any defendant resides or is out of the state, he may be served with a copy of the information in the same manner and with like effect, and the service may be proved in the same way as provided in the case of bills in chancery.

§ 4. Every defendant who shall be summoned or served with a copy of the information as required in this act, shall be held to demur or plead to the information on the return day of the summons, or when served with a copy of the information at the expiration of the time required to be given, or within such further time as may be granted by the court, or in default thereof, judgment may be taken *nil dicat*.

§ 5. The court in which any information, as aforesaid, is filed, may allow the relator or any defendant such convenient time to plead, reply or demur, as it shall deem just and reasonable.

§ 6. In case any person or corporation against whom any such information is filed is adjudged guilty, as charged in the information, the court may give judgment of ouster against such person or corporation from the office or franchise, and fine such person or corporation for usurping, intruding into, or unlawfully holding and executing such office or franchise, and also give judgment in favor of the relator for the costs of the prosecution: *Provided*, that instead of judgment of ouster from a franchise for an abuse thereof, unless the court is of the opinion that the public good demands such judgment, the court may fine the person or corporation found guilty in any sum not exceeding twenty-five thousand dollars for each offense. Whenever judgment is given for any defendant in such information, the person or corporation to whom judgment is given shall recover costs against the relator.

§ 7. Appeals and writs of error may be taken and prosecuted in the same manner and upon the same terms, and with like effect as in other civil cases.

RAILROADS.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PREVENT EXTORTION AND UNJUST DISCRIMINATION IN THE RATES CHARGED FOR THE TRANSPORTATION OF PASSENGERS AND FREIGHTS ON RAILROADS IN THIS STATE, AND TO PUNISH THE SAME, AND PRESCRIBE A MODE OF PROCEDURE AND RULES OF EVIDENCE IN RELATION THERETO, AND TO REPEAL AN ACT ENTITLED 'AN ACT TO PREVENT UNJUST DISCRIMINATIONS AND EXTORTIONS IN THE RATES TO BE CHARGED BY THE DIFFERENT RAILROADS IN THIS STATE FOR THE TRANSPORTATION OF FREIGHTS ON SAID ROADS,' APPROVED APRIL 7, A. D. 1871."

Approved March 26, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That section eight of said act shall be so amended as to read as follows :*

"The railroad and warehouse commissioners are hereby directed to make, for each of the railroad corporations doing business in this state, as soon as practicable, a schedule of reasonable maximum rates of charges for the transportation of passengers and freight and cars on each of said railroads; and said schedule shall, in all suits brought against any such railroad corporations, wherein is in any way involved the charges of any such railroad corporation for the transportation of any passenger or freight or cars, or unjust discrimination in relation thereto, be deemed and taken in all courts of this state as *prima facie* evidence that the rates therein fixed are reasonable maximum rates of charges for the transportation of passengers and freights and cars upon the railroads for which said schedules may have been respectively prepared. Said commissioners shall from time to time, and as often as circumstances may require, change and revise said schedules. When any schedules shall have been made or revised, as aforesaid, it shall be the duty of said commissioners to cause publication thereof to be made for three successive weeks, in some public newspaper published in the city of Springfield, in this state. All such schedules, heretofore or hereafter made, purporting to be printed and published as aforesaid, shall be received and held in all such suits as *prima facie* the schedules of said commissioners, without further proof than the production 'of the schedule desired to be used as evidence, with a certificate of the railroad and warehouse commissioners that the same is a true copy of a schedule prepared by them for the railroad company or corporation therein named, and that the same has been published as required by law, stating the name of the paper in which the same was published, together with the date of such publication.'"

Burnt Records. - - - Evidence. - - - What may be Admitted.

RECORDS.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO REMEDY THE EVILS CONSEQUENT UPON THE DESTRUCTION OF ANY PUBLIC RECORDS BY FIRE, OR OTHERWISE," APPROVED APRIL 9, 1872.

Approved March 30, 1874. In force March 30, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That sections twenty-three (23) and twenty-four (24) of an act entitled "An act to remedy the evils consequent upon the destruction of any public records by fire, or otherwise," approved April 9, 1872, be amended, so as to read as follows:

"§ 23. In all cases under the provisions of this act, and in all proceedings or actions now or hereafter instituted as to any estate, interest or right in, or any lien or incumbrance upon any lots, pieces or parcels of land, when any party to such action or proceeding, or his agent or attorney in his behalf, shall orally in court, or by affidavit, to be filed in such action or proceeding, testify and state under oath that the original of any deeds, conveyances, or other written or record evidence, has been lost or destroyed, or not in the power of the party wishing to use it on the trial to produce the same, and the record thereof has been destroyed by fire, or otherwise, the court shall receive all such evidence as may have a bearing on the case, to establish the execution or contents of the deeds, conveyances, records, or other written evidence, so lost or destroyed: *Provided*, that the testimony of the parties themselves shall be received subject to all the qualifications in respect of such testimony which are now provided by law: *And, provided, further*, that any writings in the hands of any person or persons which may become admissible in evidence, under the provisions of this section or of any other part of this act, shall be rejected, and not be admitted in evidence unless the same appear upon its face without erasure, blemish, alteration, interlineation or interpolation in any material part, unless the same be explained to the satisfaction of the court, and to have been fairly and honestly made in the ordinary course of business; and that any person or persons making any such erasure, alteration, interlineation or interpolation, in any such writing, with the intent to change the same in any substantial matter, after the same has been once made as aforesaid, shall be guilty of the crime of forgery, and be punished accordingly; and that any and all persons who may be engaged in the business of making writings or written entries concerning or relating to lands and real estate, in any county in this state, to which this act applies, and of furnishing to persons applying therefor abstracts and copies of such writings or written entries as aforesaid, for a fee, reward or compensation therefor, and shall not make the same truly and without alteration or inter-

polation, in any matter of substance, with the view and intent to alter or change the same in any material matter, or matter of substance, shall be guilty of the crime of forgery, and punished accordingly; and any and all such person or persons shall furnish said abstracts or copies as aforesaid, to the person and persons from time to time applying therefor, in the order of applications and without unnecessary delay, and for a reasonable consideration to be allowed therefor, which in no case shall exceed the sum of one dollar and fifty cents for each and every conveyance, or other like change of title, shown upon such abstract or copy; and any and all persons so engaged, and whose business is hereby declared to stand upon a like footing with that of common carriers, who shall refuse so to do, if tender or payment be made to him or them of the amount demanded for such abstract or copy, not exceeding the amount aforesaid, as soon as such amount is made known or ascertained, or of a sum adequate to cover said amount, before its ascertainment, shall be guilty of the crime of extortion, and be punished by a fine of not less than one hundred dollars, and not exceeding one thousand dollars, therefor, upon indictment in any court having jurisdiction thereof, and shall also be liable in an action on the case, or other proper form of action or suit, for any and all damages, loss or injury which any person or persons applying therefor may suffer or incur by reason of such failure to furnish such abstract or copy as aforesaid."

"§ 24. Whenever, upon the trial of any suit or proceeding which is now, or hereafter may be, pending in any court in this state, any party to such suit or proceeding, or his agent or attorney in his behalf, shall orally in court, or by affidavit to be filed in such cause, testify and state under oath that the originals of any deeds, or other instrument in writing, or records of any court relating to any lands, the title or any interest therein being in controversy in such suit or proceeding are lost or destroyed, or not within the power of the party to produce the same, and that the records thereof are destroyed by fire, or otherwise, it shall be lawful for any such party to offer, and the court shall receive as evidence, any abstract of title made in the ordinary course of business, prior to such loss or destruction, showing the title of such land, or any part of the title of such land, that may have been delivered to the owners or purchasers, or other parties interested in the land, the title, or any part of the title of which is shown by such abstract of title."

§ 2. Whereas, the records of Cook county have been destroyed by fire, and many suits are pending wherein the written evidence has been also destroyed, therefore an emergency exists requiring immediate legislation on this subject; therefore, this act shall take effect from and after its passage.

REPLEVIN.

AN ACT TO REVISE THE LAW IN RELATION TO REPLEVIN.

Approved February 9, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That whenever any goods or chattels shall have been wrongfully distrained, or otherwise wrongfully taken, or shall be wrongfully detained, an action of replevin may be brought for the recovery of such goods or chattels, by the owner or person entitled to their possession, in any court of competent jurisdiction.

§ 2. No action of replevin shall lie at the suit of the defendant in any execution or attachment, to recover goods or chattels seized by virtue thereof, unless such goods and chattels are exempted, by law, from such execution or attachment; nor shall an action of replevin lie for such goods and chattels at the suit of any other person, unless he shall, at the time, have a right to reduce into his possession, the goods taken.

§ 3. The action may be brought in any county in which the goods and chattels or any part of them are, or in which the defendant or, if several defendants, either of them resides or may be found.

§ 4. The person bringing such action shall, before the writ issues, file with the clerk of the court in which the action is brought, or with the justice of the peace before whom the suit is commenced an affidavit showing that the plaintiff in such action is the owner of the property described in the writ and about to be replevied, or that he is then lawfully entitled to the possession thereof, and that the property is wrongfully detained by the defendant and that the same has not been taken for any tax, assessment, or fine levied by virtue of any law of this state, nor seized under any execution or attachment against the goods and chattels of such plaintiff liable to execution or attachment, nor held by virtue of any writ of replevin against such plaintiff.

§ 5. When the affidavit is made by any person on behalf of the plaintiff, the same may be upon the information and belief of the affiant.

§ 6. When the writ is issued out of a court of record it shall be directed to the sheriff or other proper officer of the proper county to serve; when issued by a justice of the peace it shall be directed to any constable of such county. Such writs shall be made returnable as writs of summons.

§ 7. The writ of replevin shall require the sheriff, constable or other officer to whom it is directed, to take the property, describing it as in the affidavit, from the possession of the defendant, and deliver the same to the plaintiff, and to summon the defendant to answer the plaintiff in the action, or in case the property or any part thereof is not found and delivered to the

Replevin Bond. - - - Failure to Take, Liability. - - - Duty of Officer.

sheriff, constable or other officer, to answer the plaintiff for the value of the same.

§ 8. Counterparts of the writ of replevin may issue upon the suggestion of the plaintiff to several counties, to be executed upon the goods or served upon the defendants to be found therein: *Provided*, that if none of the property sought to be replevied is found in the county where the suit is brought, and neither of the defendants resides or can be found therein, the plaintiff shall not be entitled to judgment except as to such defendants as appear and defend the suit.

§ 9. When it appears by the return of the officer that any defendant is not found "*alias*" and "*pluries*" writs directing the officer to summon such defendant may issue on the application of the plaintiff until such defendant is served.

§ 10. Before the execution of any writ of replevin, the plaintiff or some one on his behalf shall give to the sheriff, constable, or other officer, bonds with sufficient security in double the value of the property about to be replevied, conditioned that he will prosecute such suit to effect and without delay, and make return of the property, if return thereof shall be awarded, and save and keep harmless such sheriff, constable or other officer (as the case may be) in replevying such property.

§ 11. Such officer shall return the bond so taken by him, together with the writ, to the clerk or justice of the peace who issued the writ.

§ 12. If the sheriff, constable, or other officer fails to take and return the bond, as required by this act, or returns an insufficient bond, he shall be liable to the party injured for all damages he may sustain by reason of such neglect, which may be recovered in an action on the case, in any court of competent jurisdiction, or by an action upon his official bond.

§ 13. No sheriff, constable or other officer shall be liable, under the preceding section, unless the bond was insufficient when taken, nor unless suit is commenced against him or upon his bond, within three years after the cause of action shall have accrued.

§ 14. Upon such bond being given, the sheriff, constable or other proper officer shall forthwith execute such writ by seizing and delivering the property therein mentioned to the plaintiff or his agent, and by reading such writ to the defendant if he can be found.

§ 15. It shall be the duty of the officer having the writ of replevin, to serve the same by reading to the defendant, whether the property is found or delivered to him or not, unless when none of the property is found the officer is otherwise directed by the plaintiff or his agent.

§ 16. When it shall appear by affidavit of the plaintiff, his attorney or agent, or by the return of the officer, that any defendant in such suit is not a resident of this state, or has departed from this state, or on due inquiry cannot be found, or is concealed within this state so that process cannot be

When Property not Found. - - - Pleadings. - - - Judgment.

served on him, notice may be given as provided by law in cases of attachment, and with like effect.

§ 17. Declarations in replevin may be filed in like manner as other declarations.

§ 18. When the property or any part thereof has not been found or delivered as aforesaid, and the defendant is summoned or enters his appearance, the plaintiff may declare in trover for such property or so much thereof as is not found and delivered to the sheriff, constable or other officer, and as to the property not found and delivered, the plaintiff, if he shall recover, shall be entitled to judgment for the value thereof or his interest therein, and such damages as he shall have sustained by reason of the wrongful taking and detention, as in other cases of trover.

§ 19. It shall be sufficient for the defendant, in all cases of replevin for distress taken for rent, to avow or make cognizance generally, without particularly setting forth the tenure or title to the lands whereon such distress was taken.

§ 20. When the suit is before a justice of the peace, no written pleadings shall be required.

§ 21. Amendments shall be permitted in actions of replevin, as in other suits at law.

§ 22. If the plaintiff in an action of replevin fails to prosecute his suit with effect, or suffers a non-suit or discontinuance, or if the right of property is adjudged against him, judgment shall be given for a return of the property and damages for the use thereof from the time it was taken until a return thereof shall be made, unless the plaintiff shall, in the meantime have become entitled to the possession of the property, when judgment may be given against him for costs and such damage as the defendant shall have sustained; or if the property was held for the payment of any money, the judgment may be in the alternative that the plaintiff pay the amount for which the same was rightfully held with proper damages within a given time or make return of the property.

§ 23. If judgment is given for the plaintiff in replevin, he shall recover damages for the detention of the property while the same was wrongfully detained by the defendant.

§ 24. In either case provided for in the two preceding sections, if the case is tried by a jury, the damages may be assessed by such jury, but if the plaintiff makes default or the judgment is given for defendant without a trial, the damages may be assessed by the court or by a jury impaneled for that purpose.

§ 25. If at any time the condition of the bond required by section ten of this act shall be broken, the sheriff, constable or other officer, or plaintiff in the name of the sheriff to his own use, as the case may be, may sue and maintain an action on such bond, for the recovery of such damages as may have been sustained in consequence of the breach of such condition.

Township Assessors. - - - Assessment of 1873 Legalized.

§ 26. When the merits of the case have not been determined in the trial of the action in which the bond was given, the defendant in the action upon the replevin bond may plead that fact and his title to the property in dispute in said action of replevin.

§ 27. Chapter eighty-eight of the Revised Statutes of 1845, entitled "Replevin," and an act entitled "An act concerning practice," approved March 1, 1847, and an act entitled "An act to amend chapter eighty-eight of the Revised Statutes, approved March 3, 1845, entitled 'Replevin,'" approved February 15, 1851, and an act entitled "An act giving justices jurisdiction in replevin," approved February 24, 1859, and an act entitled "An act relating to actions of replevin before justices of the peace," approved February 12, 1863, and an act entitled "An act to amend chapter eighty-eight of the Revised Statutes," approved March 29, 1869, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to effect any rights existing or actions pending when this act shall take effect.

REVENUE.

AN ACT IN REGARD TO ASSESSORS AND COLLECTORS IN CERTAIN INCORPORATED CITIES, AND TO EXTEND THE TIME FOR THE ASSESSMENT AND COLLECTION OF THE COUNTY AND STATE TAXES THEREIN, FOR THE YEAR A. D. 1873.

Approved February 12, 1874. In force February 12, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That in all incorporated cities in this state, situated in counties under township organization, in which no township assessor or collector is now provided by law, and in which an assessor and collector of taxes for such cities shall have been appointed in pursuance of an act entitled "An act in regard to assessors and collectors of city taxes in incorporated cities," approved April 25, 1873, any such assessor and collector shall possess all the powers, and perform the same duties within such city, as are required to be performed by town or district collectors under the general revenue law of this state, and shall be entitled to receive the same compensation as now allowed town or district collectors. All assessments of property made for the year A. D. 1873 by such assessor and collector, are hereby declared to be as legal and valid as if made in strict compliance with the requirements of the general revenue law of this state.

§ 2. Such assessor shall, as soon as possible after the passage of this act, return a copy of his assessment books and schedules to the county clerk

Assessment Corrected. - - - The Collector. - - - Time Extended.

of the county in which such city is situated, as required by sections 90 and 91, of an act approved March 30, 1872, entitled "An act for the assessment of property, and for the levy and collection of taxes;" and said county clerk is hereby directed to proceed at once, as in case of any assessment made under said act, to correct and perfect said books, and make out and transmit to the auditor of public accounts an abstract of the assessment of property in said city, as required by section 98 of said act approved March 30, 1872; and the auditor of public accounts shall equalize the assessment of such city, and complete the assessment of the capital stock of each company or association in such city, and report the rates to be added or deducted from the assessed valuation, and the amounts assessed to such county clerk in the manner provided by law; and such county clerk is hereby required to extend upon the valuation so equalized and assessed, in the book or books for the collection of taxes in such city, the full amount of taxes required to be collected, on rates certified by the auditor of public accounts, and also the full amount required to be levied and collected for county purposes within such city for the year 1873, and when completed shall deliver said tax book or books to the collector, mentioned in section one of this act, as soon as he is qualified as hereinafter provided.

§ 3. Such collector, so appointed, shall hold his office for one year, unless his successor is sooner appointed by said city council, or elected pursuant to law. Before such collector shall enter upon his duties, he shall take an oath of office, and give bond, as nearly as may be, as is now required of town and district collectors in section one hundred and thirty-three of an act entitled "An act for the assessment of property, and for the levy and collection of taxes," approved March 30, 1872. Such bond shall be approved by the city council appointing said collector, and shall be recorded in the office of the recorder of deeds of the county in which such city is situated; and said bond shall be filed with the clerk of the county court, and when so recorded shall be a lien upon the real estate of such collector, until he shall have complied with the conditions thereof.

§ 4. The time for the collection of the state and county and other taxes for 1873, in cities mentioned in section one of this act, is hereby extended to the tenth day of May, A. D. 1874.

§ 5. Whereas, there is no provision of law for the assessment and collection of state and county taxes, in cities mentioned in section one of this act, for the year A. D. 1873, wherefore an emergency exists, that this law should take effect immediately; therefore, this act shall take effect and be in force from and after its passage.

Failure of Collector to Settle. - - - Suit to be Instituted.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT FOR THE ASSESSMENT OF PROPERTY, AND FOR THE LEVY AND COLLECTION OF TAXES," APPROVED MARCH 30, 1872.

Approved March 24, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That sections two hundred and fifty-nine, two hundred and sixty, two hundred and sixty-one and two hundred and sixty-two of an act entitled "An act for the assessment of property, and for the levy and collection of taxes," approved March 30, 1872, be amended so as to read as follows:*

"§ 259. Upon the failure of any collector to make settlement with the auditor, or to pay money into the state treasury, it shall be the duty of the auditor to sue the collector and his sureties upon the bond of such collector, or to sue the collector in such form as may be necessary, and take all such proceedings, either upon such bond or otherwise, as may be necessary to protect the interests of the state.

"§ 260. When suit is instituted in behalf of the state, it may be in either division of the supreme court, or in the Sangamon county circuit court, or in any court of record in this state having jurisdiction of the amount; and process may be directed to any county in the state. In any proceeding against any officer or person whose duty it is to collect, receive, settle for or pay over any of the revenues of the state, whether the proceeding be by suit on the bond of such officer or person, or otherwise, the court in which such proceeding is pending shall have power, in a summary way, to compel such officer or person to exhibit, on oath, a full and fair statement of all moneys by him collected or received, or which ought to be settled for or paid over, and to disclose all such matters and things as may be necessary to a full understanding of the case; and the court may, upon hearing, give judgment for such sum or sums of money as such officer or person is liable in law or equity to pay. And if in a suit upon the bond of any such officer or person, he or his sureties, or any of them, shall not for any reason be liable upon the bond, the court may, nevertheless, give judgment against such officer or person, or against such officer and such of his sureties as are liable for the amount he or they may be liable to pay, without regard to the form of the action or pleadings.

"§ 261. When suit has been instituted by the auditor, any party aggrieved may proceed under the judgment obtained (upon the bond), by writ of inquiry of damages, as in other cases upon bonds.

"§ 262. Cities, towns, villages or corporate authorities, or persons aggrieved, may prosecute suit against any collector or other officer collecting or receiving funds for their use, by suit upon the bond, in the name of the People of the State of Illinois, for their use in any court of competent juris-

Books to be Filed in Office of County Clerk. - - - Construction of Statutes.

diction, whether the bond has been put in suit at the instance of the auditor or not; and in case of judgment thereon, the auditor may, if he shall so elect, have a writ of inquiry of damages for any amount that may be due to the state treasury from such officer. Cities, towns, villages and other corporate authorities or persons, shall have the same rights in any suits or proceedings in their behalf as is provided in case of suits by or in behalf of the state."

AN ACT TO AMEND SECTION NINETY-TWO OF AN ACT ENTITLED "AN ACT FOR THE ASSESSMENT OF PROPERTY AND FOR THE LEVY AND COLLECTION OF TAXES," APPROVED MARCH 30, 1872.

Approved March 30, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section ninety-two of an act entitled "An act for the assessment of property, and for the levy and collection of taxes," approved March 30, 1872, be amended to read as follows:

"§ 92. The several assessment books shall be filed in the office of the county clerk, and there remain open to the inspection of all persons: *Provided*, that the county clerk shall, in the month of April, deliver to the town clerks of the several towns in the county, the assessment books of their respective towns for the previous year, such books to be returned by the town clerks to the county clerk's office before the 1st of July of the same year."

AN ACT TO REVISE THE LAW IN RELATION TO THE CONSTRUCTION OF THE STATUTES.

Approved March 5, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That in the construction of all statute now in force, or which may hereafter be enacted, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the same statute, that is to say:

First—All general provisions, terms, phrases and expressions shall be liberally construed in order that the true intent and meaning of the legislature may be fully carried out.

Second—Words in the present tense include the future.

Third—Words importing the singular number may extend and be

Rules for the Construction of the Statutes.

applied to several persons or things, and words importing the plural number may include the singular.

Fourth — Words importing the masculine gender may be applied to females.

Fifth — The word "person" or "persons," as well as all words referring to or importing persons, may extend and be applied to bodies politic and corporate as well as individuals.

Sixth — The words "insane person" and "lunatic" shall include every idiot, *non compos*, lunatic, insane or distracted person; and the word "spend-thrift" shall include every person who is liable to be put under guardianship on account of excessive drinking, gaming, idleness or debauchery.

Seventh — The words "county board" shall apply to the board of county commissioners in counties not under township organization, and the board of supervisors in counties under township organization, and to the board of commissioners in Cook county.

Eighth — The terms "sheriff," "coroner," "constable," "clerk," or other words used for an executive or ministerial officer, may include any deputy or other person performing the duties of such officer, either generally or in special cases; and the words "county clerk" shall be held to include clerk of the county court, and the words "clerk of the county court" to include "county clerk."

Ninth — Words purporting to give a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

Tenth — The word "month" shall mean a calendar month, and the word "year" a calendar year, unless otherwise expressed; and the word "year" alone, shall be equivalent to the expression "year of our Lord."

Eleventh — The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Sunday, and then it also shall be excluded.

Twelfth — The word "oath" shall be deemed to include an affirmation, and the word "sworn" shall be construed to include the word "affirmed."

Thirteenth — The word "wills" includes codicils.

Fourteenth — The word "state," when applied to different parts of the United States, may be construed to include the District of Columbia and the several territories, and the words "United States" may be construed to include the said district and territories.

Fifteenth — The words "written" and "in writing" may include printing and any other mode of representing words and letters; but when the written signature of any person is required by law to any official or public writing or bond, it shall always be in the proper handwriting of such person, or in case he is unable to write, his proper mark.

Sixteenth — The word "highway," "road" or "street" may include any

Act to Revise the Law Relating to Toll Roads.

road laid out by the authority of the United States, or of this state, or of any town or county of this state, and all bridges upon the same.

Seventeenth — The word "heretofore" shall mean any time previous to the day on which the statute takes effect; and the word "hereafter," any time after such day.

Eighteenth — The term "laws now in force," and words of similar import, shall mean the laws in force at the time the act containing the words shall take effect.

Nineteenth — The term "court" includes justices of the peace as well as all courts of record.

§ 2. The provisions of any statute, so far as they are the same as those of any prior statute, shall be construed as a continuation of such prior provisions, and not as a new enactment.

§ 3. No act or part of an act repealed by the general assembly shall be deemed to be revised [revived] by the repeal of the repealing act.

§ 4. No new law shall be construed to repeal a former law, whether such former law is expressly repealed or not, as to any offense committed against the former law, or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued, or claim arising under the former law, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new law takes effect, save only that the proceedings thereafter shall conform, so far as practicable, to the laws in force at the time of such proceeding. If any penalty, forfeiture or punishment be mitigated by any provision of a new law, such provision may, by the consent of the party affected, be applied to any judgment pronounced after the new law takes effect. This section shall extend to all repeals, either by express words or by implication, whether the repeal is in the act making any new provision upon the same subject or in any other act.

AN ACT TO REVISE THE LAW IN RELATION TO TOLL ROADS.

Approved March 25, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That no turnpike, plank, gravel, macadamized or other toll road shall be established or constructed without the consent of the county board of each county in which the same is to be established or constructed in whole or in part.

§ 2. Any person or corporation may petition the county board for leave to establish a turnpike, plank, gravel, macadamized or other toll road, and if the said board shall deem such road necessary, it may authorize its establish-

Notice Required. - - - Consent Obtained. - - - Width of Roads.

ment and construction upon such terms and conditions as it shall deem for the public good.

§ 3. No such consent shall be given until the petitioner shall have given notice of his intended application by publication in some newspaper published in the county, at least four weeks successively next preceding the session of the county board at which the application is made, or if no newspaper is published in such county, by posting notices in at least four public places therein, not less than four weeks previous to such session. When the application is to several county boards, the notice shall be given in each county.

§ 4. No such road shall be located on any public road or highway outside the corporate limits of a city, town or village, without the consent of the county board of the county, and consent of the commissioners of highways of the town in which such highway is situated, nor upon any street, alley or other highway or public ground within any incorporated city, town or village without the consent of the corporate authorities of such city, town or village. The consent herein required must be in writing, and shall be recorded in the recorder's office of the county.

§ 5. Before any tolls shall be collectable over any such road, the company constructing or owning the same, shall cause an accurate survey of such road or such part thereof as is located and constructed, to be signed by the president and secretary, and acknowledged by them in the same manner as conveyances of real estate are required to be acknowledged, and recorded in the recorder's office of the county or several counties in which such road or part thereof is located.

§ 6. At least fourteen feet in width of the road bed of every such road shall be so planked, gravelled, macadamized or otherwise made as to secure a firm and substantial road, suitable for public travel: *Provided*, that in cases of plank roads only the width of eight feet of such road shall be required to be planked.

§ 7. As soon as such road shall have been completed, or any part thereof, not less than one mile continuously, and so from time to time as often as one mile in addition shall be completed, adjoining that previously constructed, the county board of the county in which the road lies, shall, on application, appoint three judicious householders, who shall, on oath, examine the same, and report their opinion to the county board in writing; and if it shall appear from such report, to the satisfaction of the board, that the road or such part thereof is completed, agreeably to the provisions of this act, and suitable for travel, such board shall authorize the erection of gates at suitable distances, and the taking of toll.

§ 8. The rate of toll on any toll road heretofore established or constructed, or which may hereafter be established or constructed under any law of this state, shall not exceed, for every vehicle drawn by one animal, two cents per mile; for every vehicle drawn by two animals, three cents per mile, and one-

Rates of Toll Fixed. - - - Penalty for Avoiding Toll, or Damaging Road.

half cent additional per mile, for every animal more than two; for every ten head of neat cattle, sheep or swine, one cent per mile; for every horse or mule with or without rider, one cent per mile.

§ 9. The county board of any county in which any toll road, or any part thereof, is, or may hereafter be situated, may, from time to time, fix such rates of toll to be charged on such road, or part thereof, less than the rates mentioned in the preceding section, as they shall deem proper; and in case of the neglect of the owner or operator of any toll road to keep the same in repair, and suitable for public travel, may prohibit the taking of toll thereon.

§ 10. Every person or corporation owning or operating any toll road shall keep a list of the legal rates of toll, printed or written in a legible hand, constantly posted up in some public place at or near the toll gate or place where toll is collected. If any person or corporation shall fail to comply with the provisions of this section, he shall, for every day such list is not posted up, forfeit ten dollars to the county.

§ 11. Every person or corporation who shall take or demand any greater rate of toll for the passage of any person or property over any such toll road than is allowed by law, shall, for each offense, forfeit and pay to the party aggrieved the sum of five dollars, and such additional amount as shall have been illegally taken.

§ 12. No toll-gate shall be erected or kept, or toll demanded, within the corporate limits of any incorporated city, or within one hundred and sixty rods of such limits.

§ 13. It shall be lawful for any toll-gatherer on any toll-road to stop and detain any person going on the same, until the toll properly chargeable shall be paid; and any person who shall use such road and refuse to pay said toll, shall forfeit and pay for such refusal the sum of five dollars; and any person who, to avoid the legal toll chargeable on such road, shall turn off the same and pass such toll-gate and again enter upon the same, shall forfeit and pay the sum of ten dollars; and any person who shall forcibly pass any toll-gate on such road, without having paid the legal toll, shall forfeit and pay the sum of twenty-five dollars. All penalties and forfeitures incurred under this section may be recovered, with costs of suit, in an action of debt, in the name of such company and for its use, before any justice of the peace of the proper county, or any court having jurisdiction thereof.

§ 14. If any person or persons shall willfully or negligently do, or cause to be done, any act or acts whatever, whereby such road, or any of its appendages shall be impaired, injured, obstructed or destroyed, such person or persons shall forfeit and pay to such company treble the amount of damages sustained by reason thereof, to be recovered, with costs, in the name of such company, and for its use, in an action of trespass, before any court having cognizance thereof, or any justice of the peace of the proper county; and if willfully done, shall also be deemed guilty of a misdemeanor, and be subject to indictment and fine, not less than ten nor more than one hundred dollars,

or imprisonment not exceeding six months, or both, in the discretion of the court having jurisdiction thereof.

§ 15. The county board in each county in which any toll-road is or shall be, in whole or in part, established or constructed under this or any other general law, or any special law, shall appoint three resident freeholders of the county, not interested in any toll-road, as inspectors of toll-roads in such county, whose term of office shall be two years, and until their successors are appointed and qualified.

§ 16. Such inspectors shall take and subscribe, and file in the office of the county clerk, an oath in the following form:

"I do solemnly swear (or affirm, *as the case may be*,) that I will support the constitution of the United States, and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of inspector of toll-roads, according to the best of my ability."

§ 17. It shall be the duty of such inspectors, at least once every three months,—in the months of January, May, August and November, respectively—to go over the entire length of each toll-road and examine its condition, and also, immediately upon complaint made in writing by any person that any road is out of repair, to examine the part so alleged to be out of repair; and whenever they shall find any toll-road to be out of repair and unfit for use, to give written notice thereof to the person or company owning or operating the same, or his agent, requiring such road to be put in repair within such time as shall be mentioned in the notice, not less than three nor exceeding fifteen days.

§ 18. When complaint is made, as provided in the preceding section, the person complaining shall deposit with the inspectors a sufficient sum of money to defray the expenses of such inspection. In case the complaint is found to be well-grounded and the repairs necessary, such sum shall be refunded to the complainant: otherwise, to be appropriated to pay said expenses.

§ 19. If the person or company owning or operating the road shall fail or refuse to make the repairs required within the time specified, said inspectors shall cause the toll-gates on such road to be thrown open, and shall make and file in the office of the county clerk a certificate of the facts, and after the toll-gates are thrown open as aforesaid, no toll shall be collectable by the person or corporation owning or operating such road, or any of its agents or servants, until the inspectors, upon the request of such person or corporation, shall make and file in the office of the county clerk a certificate that such road is in good repair and fit for use, and such person or company shall have paid into the county treasury the sum of five dollars.

§ 20. The inspectors shall be entitled to three dollars per day for each day they are actually employed in the inspection of any such toll-road, to be paid by the company or person owning or operating the road inspected: *Provided*, that when such inspection be made upon complaint, and the complaint

Taking Illegal Toll. -- Condemnation of Property. -- Free Roads. -- Extensions.

be decided unfounded, such company or person shall not be liable to pay such sum.

§ 21. Any person or company owning or operating any toll-road, who shall demand or take any toll during the time the gates are thrown open by order of the inspectors, or of the county board, shall forfeit to the county the sum of ten dollars for each offense, and to the person from whom such illegal toll is taken, five dollars and the sum so taken.

§ 22. Any person or company having authority to establish or construct any turnpike, plank, gravel, macadamized or other toll-road, in pursuance of this or any other general, or any special law of this state, may survey, locate, construct and maintain such road, with all needful bridges, toll-gates and other appendages as may be necessary for the convenient use of the same, and for that purpose may cross any street, alley, private road, public highway, railroad or canal, and may take and damage such private property as may be necessary therefor.

§ 23. When it shall be necessary for any of the purposes expressed in the preceding section, to take or damage any property, including necessary rocks, gravel, wood and other material for the construction or repair of any such road, the same may be done and the compensation therefor ascertained in the manner then provided by law for the exercise of the right of eminent domain.

§ 24. Whenever the county board of any county shall deem it for the public interest that any toll-road situated in the county ought to be made a free road, it may take and condemn the same for that purpose, in the manner then provided by law for the exercise of the right of eminent domain. When any such road is situated in several counties, the proceedings shall be by all such counties jointly.

§ 25. No part of any toll-road less than the whole shall be condemned without the consent of the person or company owning or operating such road.

§ 26. Any turnpike, plank, gravel, macadamized or other toll-road company heretofore incorporated by general or special act of incorporation, having obtained the right of way, in pursuance of law, for an extension of its road, may extend its road at either end by giving the notice required in section three of this act, and obtaining the consent as provided in sections one and four of this act. And whenever any such company shall have extended its road as aforesaid any distance not less than one mile, and so, from time to time, as often as one mile in addition shall be completed adjoining that previously constructed, the county board of the county in which the road lies shall, on application, appoint three judicious householders, who shall, on oath, examine the same and report their opinion to the county board, in writing; and if it shall appear from such report, to the satisfaction of the board, that such extension is completed agreeably to the provisions of this act and suitable for travel, such board shall authorize the collection of tolls thereon, as provided in this act.

ROADS AND BRIDGES.

AN ACT TO REVISE THE LAW IN RELATION TO TOLL BRIDGES.

Approved March 23, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That no toll bridge shall be established or erected across any lake, river, creek or other water course in this state without the consent of the county board of the county in which the same is to be established or erected.

§ 2. Any person or corporation may petition the county board for leave to establish and erect a toll-bridge, and if said board shall deem such bridge necessary, it may authorize the establishment and erection thereof upon such terms and conditions as it shall deem for the public good: *Provided*, that no bridge shall be constructed over any navigable water without a suitable draw for the passage of water craft, nor in such a manner as to interfere with navigation.

§ 3. When the bridge is to be established between two counties, the petition shall be addressed to the county boards of both counties, and the consent of each of said boards shall be necessary to authorize the erection or establishment of such bridge.

§ 4. No such consent shall be given unless the petitioner shall have given notice of his intended application in some newspaper published in the county for at least four weeks successively, next preceding the session of the county board at which the application is made; or, if no newspaper is published in such county, by posting notices in four public places therein, at least four weeks previous to such session. When the application is to several county boards, the notice shall be given in each county. At least four weeks' notice of such intended application shall be given in writing to the owners of the land adjoining to or embracing the water course over which such bridge is to be erected: *Provided*, that such written notice need not be given to any owner not residing in the state, or who cannot, upon due inquiry, be found.

§ 5. The proprietors of lands adjoining to, or embracing the water course over which a toll-bridge is proposed to be established, shall have the preference, if they will apply before such privilege shall have been granted to any other person or corporation.

§ 6. Any county board granting permission to erect any such bridge, may require of the person or corporation to which such permission is granted, bonds in such sum, upon such conditions, and with such security as it shall deem proper, and may insert therein a provision for the payment of any damages that any person may sustain by reason of the construction of

such bridge; and any person so damaged may bring suit thereon for his own use.

§ 7. The county board shall fix the rates of toll, and may, from time to time, alter and change the same, and in case of the neglect of the owner of the bridge to keep the same in proper repair and safe for the crossing of persons and property, may prohibit the taking of toll.

§ 8. Every person or corporation owning or operating any toll-bridge, shall keep a list of the legal rates of toll, printed or written in a legible hand, constantly posted up in some public place, at or near the toll gate, or place where toll is collected. If any such person or corporation shall fail to comply with the provisions of this section, he shall for every day such list is not posted up forfeit ten dollars to the county.

§ 9. Every person or corporation who shall take or demand any greater rate of toll for the passage of any person or property over any bridge than is allowed by law, shall, for each offense, forfeit and pay to the party aggrieved the sum of five dollars, and such additional amount as shall have been illegally taken.

§ 10. Every toll-bridge shall be built with a good and substantial railing or siding, at least four and a half feet high, and no toll shall be collected for passing any bridge that has not such railing or siding.

§ 11. Any person or corporation maintaining a toll-bridge may, when deemed advisable, put up at each end of such bridge a notice, with the following words, in large characters: "Five dollars fine for riding or driving over this bridge faster than a walk." Whoever shall ride or drive faster than a walk over any such bridge upon which such notice shall have been placed as aforesaid, and shall then be, shall for each offense forfeit to the owners of such bridge the sum of five dollars.

§ 12. Every person or corporation owning or operating a bridge over any navigable water course shall keep the channel thereof, above and below the bridge, free and clear from all deposits in anywise prejudicial to the navigation thereof, which may be formed or occasioned by the erection of such bridge.

§ 13. Every person who shall willfully break, throw down or injure any gate erected on any toll-bridge, or shall forcibly or fraudulently pass any such bridge without having first paid or tendered the legal toll, shall forfeit to the party injured the sum of ten dollars, in addition to the damages resulting from such wrongful act.

§ 14. When it shall be necessary for the establishment, erection, repair, extension or reconstruction of any toll-bridge of public utility (including all necessary approaches thereto) that may be authorized to be established or erected pursuant to this act, or which may have been heretofore erected, to take or damage private property therefor, the same may be done, and the compensation therefor ascertained, in the manner then provided by law for the exercise of the right of eminent domain.

Acts of April 11 and 18, 1873, Amended. - - - Width of Roads and Bridges.

§ 15. Whenever the county board of any county shall deem it for the public interest that any toll-bridge in such county should be made a free bridge, it may take and condemn the same for that purpose, in the manner then provided by law for the exercise of the right of eminent domain. If the bridge is situated in two counties, such right may be exercised, and the proceedings had in behalf of such counties jointly.

AN ACT TO AMEND SECTION 20 OF AN ACT ENTITLED "AN ACT IN REGARD TO GATEWAYS, ROADS AND BRIDGES, IN COUNTIES NOT UNDER TOWNSHIP ORGANIZATION," APPROVED APRIL 18, 1873.

Approved March 24, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section twenty of an act entitled "An act in regard to gateways, roads and bridges in counties not under township organization," be and the same is hereby amended so as to read as follows:

"§ 20. All roads shall be surveyed, and a plat, with the courses and distances thereof, returned with the report of the viewers to the board of county commissioners, which shall be recorded and filed. The board of county commissioners, on the return of the report and plat, shall determine and establish on record the width of the road, making the main leading roads four rods wide, and no other roads less than fifty feet, except where a less width is prayed for in the petition, in which case the board of county commissioners may fix the width at less than fifty feet, but not less than thirty feet."

AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN REGARD TO ROADS AND BRIDGES, IN COUNTIES UNDER TOWNSHIP ORGANIZATION," APPROVED APRIL 11, 1873.

Approved March 28, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That section sixty-three of said act be amended to read as follows, to-wit:

"Any person owning, using or occupying lands on both sides of any public highway shall be entitled to the privilege of making a crossing under said highway for the purpose of letting his cattle and other domestic animals cross said road: *Provided,* said person shall erect at his own expense a good and substantial bridge, with secure railings on each side thereof, and build an embankment of easy grade on either side of said bridge; said bridge

Sec. 23, Act. 18th April, 1873, Amended.

not to be less than sixteen feet wide, and to be approved by the commissioner of highways of the town in which said bridge is built, and the same to be kept constantly in good repair by the owner or occupant of said land; the construction subject always to the consent and approval of the commissioner of highways of said town: *And, provided, further*, that in case such crossing is made on any water-way, or natural channel for water, and where a culvert or bridge is maintained, as required for road purposes, said owners or occupants shall not be required to pay for or construct any more of said crossing than the additional cost of such crossing over and above the necessary cost of a suitable culvert or bridge for road purposes at such place."

AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN REGARD TO GATEWAYS, ROADS AND BRIDGES, IN COUNTIES NOT UNDER TOWNSHIP ORGANIZATION," APPROVED APRIL 18, 1873.

Approved March 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That section twenty-three (23) of said act be amended so as to read as follows, to-wit:

"§ 23. In all cases where a public road or cartway shall have been or may be authorized by law to be laid out or constructed in any county in this state not under township organization, and the same is required to pass over the land belonging to any company, corporation or individual, and the owner or owners are incapable in law of contracting, or do not agree with the commissioner, superintendent or supervisor authorized to construct the said road, on the amount of damages resulting to said owner or owners by reason of the opening and construction of said road, it shall be lawful for said commissioner, supervisor or superintendent to make application to the nearest justice of the peace in the precinct where said land is situate for a jury to assess such damages. Said justice shall thereupon issue his summons, directed to any constable of said county, commanding him to summon such owner or owners to appear before him at a time and place to be specified in said summons, not less than five nor more than fifteen days from the date thereof, for the purpose of having such damages assessed. Said summons shall be under the hand of said justice, and shall be served as now or hereafter may be provided by law for the service of summons in civil actions before justices of the peace. At the same time said justice shall issue a venire to said constable commanding him to summon a jury of six freeholders of said county to appear before him on the day when said summons is returnable, to assess the said damages. On the return day of said summons (unless good cause is shown for a continuance) the said justice

Compensation for Damages determined by Jury. - - - Appeals.

shall proceed to impanel said jury, who shall be sworn to faithfully and impartially assess and report the damages which such owner or owners may sustain by reason of the construction of said road. The said jury shall hear any competent evidence in regard to said damages offered by either party, and the impaneling of said jury, and the proceedings before said justice and jury shall be in all respects as in other civil cases before justices of the peace, except that upon demand of either party the said jury shall personally examine the land damaged. The same jury may assess the damages of any and all of the owners of lands over which the said road shall pass, if agreed upon by the parties. The jury shall return to said justice a written verdict specifying the amount of damages to be paid to the owner or owners, and the justice shall enter the same, together with the other proceedings, upon his docket, and shall also enter judgment upon his docket. In case the owner or owners of such lands is a minor, a lunatic or insane person, the summons shall also include the name of the guardian or conservator, if there be one. If the owner is a non-resident of the county, then the said justice, upon the return of said summons "not found," shall continue the said cause for not more than thirty days, and shall post three notices in three of the most public places in said precinct, and one upon the door of the court house of said county, which notice shall give the time and place when the assessment hereinbefore provided shall be made, and shall be posted at least twenty days before the time fixed for said assessment. Said justice shall also forward a copy of said notice by mail to said owner or owners, if his or their residence is known to him. Appeals may be taken to the circuit court from the assessments of juries, and the judgment entered thereon, by either party, in the same manner as appeals are or may be taken from justices of the peace in civil cases. All cases of public roads under the provisions of this act shall be docketed 'The county of ----- vs. -----, (the owner of the land.)' And whenever the county board shall desire to take an appeal, the chairman or presiding officer of said county board shall execute the bond for and on behalf of the county. In case of cartways or private roads, all cases shall be docketed the petitioner as plaintiff, and the owner of the land as defendant, and the plaintiff shall execute bond on appeal. Upon payment or tender of the amount of damages awarded by the verdict of the jury to the owner or owners of the land damaged, the guardian, if such owner is a minor, the conservator, if such owner is an insane person, or to the county treasurer, if the owner is a non-resident of the county, or incapable in law to receive said money, the said road may be opened by the proper authority, and the title of the land vest in the public for the uses specified in the petition: *Provided*, in case of an appeal, the opening and construction of the road shall not be delayed thereby, nor shall the title of the land vest in the public, for the uses specified in the petition, until payment or tender shall be made, as above provided, of the amount of damages which shall be awarded by the final judgment of the court. The costs of

Counties under Township Organization. - - - Act of April 11, 1873, Amended.

all proceedings before the justice shall be borne by the county in case of a public road, and the person petitioning, in case of a private road or cartway. If the owner of land appeal, and the assessment made by the jury be not increased in circuit court, then such owner shall pay all costs of appeal. If the county or petitioner for a cartway appeal from any assessment by a jury before a justice, and the county or such petitioner do not reduce said assessment, the county or such petitioner shall pay all costs on appeal: *Provided*, that it shall be in the power of the county board or petitioner, in case of a cartway, after final judgment in case of a public road or cartway, to abandon all proceedings in and about the opening of said road or cartway, if they or he deem the damages too great.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT IN REGARD TO ROADS AND BRIDGES IN COUNTIES UNDER TOWNSHIP ORGANIZATION."

Approved March 26, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That section fifty-nine (59) of said act be so amended as to read as follows:

"§ 59. If any person shall purposely destroy or injure any sidewalk, public bridge, culvert or causeway, or remove any of the timber or plank thereof, or obstruct the same, he shall forfeit a sum not less than three nor more than one hundred dollars, and shall be liable for all damages occasioned thereby, and all necessary costs of rebuilding or repairing the same."

§ 2. That section sixty-two (62) of said act be so amended as to read as follows:

"§ 62. It shall be lawful for the owner or occupants of land bordering upon any public road to build sidewalks not to exceed six feet in width, and to plant shade and ornamental trees along and in such road at a distance not exceeding one-tenth of the legal width of the road from its margin, and also to erect and maintain a fence so long as shall be actually necessary for the purpose of raising a hedge on said margin a distance of four feet from and within said marginal lines."

§ 3. That section sixty-five (65) of said act be so amended as to read as follows:

"§ 65. All public highways laid out by order of the commissioners of highways or supervisors on appeal shall be not less than fifty feet wide, nor more than sixty feet wide: *Provided*, the commissioners may lay out roads not less than forty feet wide nor more than sixty feet wide, when so prayed for by the petitioners, if such road does not exceed two miles in length: *And, provided, further*, that all public roads shall be opened within five years from the date of the filing of the order laying out the same or be deemed vacated."

Sheriff's Bond. - - - Refusal to Pay Over. - - - Deputies.

SHERIFFS.

AN ACT TO REVISE THE LAW IN RELATION TO SHERIFFS.

Approved January 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That every sheriff shall be commissioned by the governor, but no commission shall issue except upon the certificate of the county clerk of the proper county of the due election or appointment of such sheriff, and that he has filed his bond and taken the oath of office, as hereinafter provided.

§ 2. Before entering upon the duties of his office, he shall give bond, with two or more sufficient sureties, to be approved by the judge of the county court of his county, in the penal sum of ten thousand dollars (except that the bond of the sheriff of Cook county shall be in the penal sum of one hundred thousand dollars and to be approved by the judges of the circuit court), payable to the People of the State of Illinois, conditioned that he will faithfully discharge all the duties required, or to be required of him by law, as such sheriff; which bond shall be entered at large upon the records of the county court, and filed in the office of the county clerk of his county.

§ 3. He shall also, before entering upon the duties of his office, take and subscribe the oath or affirmation prescribed by section twenty-five, article five, of the constitution, which shall be filed in the office of the county clerk of his county.

§ 4. If any person elected or appointed to the office of sheriff of any county, shall fail to give bond or take the oath required of him, within twenty days after he is appointed or declared elected, the office shall be deemed vacant.

§ 5. Copies of such bonds, certified by the county clerk, or of the said record thereof, certified by the clerk of the county court, shall be received as evidence.

§ 6. If any sheriff neglects or refuses to pay over any money collected by virtue of any execution, fee bill or process, to the person entitled to receive the same, or neglect any duty of his office to the injury of any person, such person may prosecute the bond of the sheriff, in the name of the People of the State of Illinois, for his use, at his cost, and like proceedings shall be had thereon as upon other bonds for the performance of covenants.

§ 7. Each sheriff may appoint one or more deputies, not exceeding the number allowed by rule of the circuit court of his county, and take bond or security from the same for his indemnity.

§ 8. Such appointment shall be in writing, signed by the sheriff.

General Duties.

§ 9. Each deputy shall, before entering upon the duties of his office, take and subscribe an oath or affirmation, in like form as is required of sheriffs, which shall be filed in the office of the county clerk.

§ 10. A sheriff may appoint a special deputy to serve any summons issued out of a court of record, by indorsement thereon, substantially as follows: "I hereby appoint ----- my special deputy, to serve the within writ," which shall be dated and signed by the sheriff.

§ 11. Such special deputy shall make return of the time and manner of serving such writ, under his oath, and for making a false return, he shall be guilty of perjury, and punished accordingly.

§ 12. Deputy sheriffs, duly appointed and qualified, may perform any and all the duties of the sheriff, in the name of the sheriff, and the acts of such deputies shall be held to be acts of the sheriff.

§ 13. The sheriff shall be liable for any neglect or omission of the duties of his office, when occasioned by a deputy, in the same manner as for his own personal neglect or omission.

§ 14. He shall have the custody and care of the court house and jail of his county, except as is otherwise provided.

§ 15. Sheriffs shall serve and execute, within their respective counties, and return all writs, warrants, process, orders and decrees of every description that may be legally directed and delivered to them.

§ 16. The disobedience of any sheriff to perform the command of any writ, warrant, process, order or decree legally issued to him, shall be deemed a contempt of the court that issued the same, and may be punished accordingly; and he shall be liable to the party aggrieved for all damages occasioned thereby.

§ 17. Each sheriff shall be conservator of the peace in his county, and shall keep the same, suppress riots, routs, affrays, fighting, breaches of the peace, and prevent crime; and may arrest offenders on view, and cause them to be brought before proper magistrates for trial or examination.

§ 18. To keep the peace, prevent crime, or to execute any writ, warrant, process, order or decree, he may call to his aid, when necessary, any person or the power of the county.

§ 19. Each sheriff shall, in person, or by deputy, attend upon all courts of record held in his county when in session, and obey the lawful orders and directions of the court.

§ 20. No sheriff or deputy sheriff shall be eligible to the office of county treasurer, nor shall any county treasurer be permitted to act as deputy sheriff.

§ 21. No sheriff or deputy sheriff shall appear in any court as attorney or counsel for any party, or become security for any person in any civil or criminal suit or proceeding.

§ 22. No sheriff or deputy sheriff shall become the purchaser, nor procure any other person to become the purchaser for him, of any property, real

Failure to Pay Over. - - - Penalties. - - - Vacancy. - - - Repeal.

or personal, by him exposed to sale, by virtue of any execution or other process; and all such purchases made by any sheriff, or deputy sheriff or by any other person in his behalf, shall be absolutely null and void.

§ 23. If any sheriff unreasonably neglects to pay any money collected by him on execution, fee bill or process, when demanded by the person entitled to receive the same, he may be proceeded against in the court from which the execution, fee bill or process issued, as for a contempt; and he shall also forfeit to the person injured five times the lawful interest of the money, from the time of the demand until paid, which may be recovered by action upon his bond, or against the sheriff alone, in any court of competent jurisdiction.

§ 24. When a sheriff goes out of office, he shall deliver to his successor all writs, process, papers and property attached or levied upon, except such as he is authorized by law to retain, and also the possession of the court house and jail of his county, and shall take from his successor a receipt, specifying the papers and property so delivered over, and the prisoners in custody, if any—which receipt shall be sufficient indemnity to the person taking the same.

§ 25. Every sheriff going out of office at the expiration of his term, and having any execution or fee bill which he may have levied but not collected, or any tax list uncollected, and which he is authorized to collect, may proceed and collect the same in the same manner as if his term of office had not expired.

§ 26. In case of a vacancy in the office of sheriff, every deputy in office under him having a writ or process in his hands at the time such vacancy happens, shall have the same authority and be under the same obligation to serve, execute and return the same as if the sheriff had continued in office.

§ 27. So much of chapter ninety-nine, of the revised statutes of 1845, entitled "Sheriffs and Coroners," as refers to sheriffs, and an act entitled "An act to authorize sheriffs to appoint special deputies," approved March 25, 1869, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

SURETIES.

AN ACT TO REVISE THE LAW IN RELATION TO SURETIES.

Approved February 27, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That when any person bound as surety for another for the payment of money, or the performance of any other contract in writing, apprehends that his principal is likely to become insolvent or to remove from the state, without discharging the contract, if a right of action has accrued on the contract, he may, by writing, require the creditor forthwith to sue upon the same; and unless such creditor shall within a reasonable time and with due diligence commence suit thereon, and prosecute the same to final judgment and execution, the surety shall be discharged; but no such discharge shall in any case affect the rights of the creditor against the principal debtor.

§ 2. The provisions of this act shall extend as well to the heirs, executors and administrators of the surety as to the heirs, executors, administrators and assigns of the creditor, but shall not extend to the official bonds of public officers, executors, administrators, guardians or conservators.

§ 3. Whenever the principal maker of any note, bond, bill or other instrument in writing shall die, if the creditor shall not within two years after the granting of letters testamentary or of administration present the same to the proper court for allowance, the sureties thereon shall be released from the payment thereof to the extent that the same might have been collected of such estate if presented in proper time; but this section shall not be construed to prevent the holder of any such instrument from proceeding against the sureties within said two years.

§ 4. No surety, his heir, executors or administrators shall be allowed to confess judgment or suffer judgment to go by default, so as to distress his principal, if the principal will enter himself as defendant to the suit, and tender to the surety, his heirs, executors, or administrators, sufficient counter security, to be approved by the court before which the suit is pending.

TENDER.

AN ACT TO REVISE THE LAW IN RELATION TO TENDER.

Approved March 7, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That* when any note, bond, bill, or other instrument in writing, is for the payment or delivery of personal property, other than money, and no particular place is specified therein for such payment or delivery, the maker may tender such personal property on the day of payment or delivery, at the place where the obligee or payee resided or had his place of business at the time of the execution of the instrument. If such personal property is too ponderous to be easily moved, or the obligee or payee had not, at the time of the execution of such instrument, a known place of residence or business in the county where the maker resided, or had his place of business, then tender may be made at the place where the maker resided or had his place of business at the time of the execution of the instrument. A tender made in pursuance of this section shall be equally valid in case the instrument is assigned, as if no assignment had been made.

§ 2. A legal tender of any such personal property shall discharge the maker of any such instrument from all liability thereon; and the property thus tendered shall be vested in the legal holder of the instrument, and he may maintain an action for the recovery thereof, or for damages, if the possession be subsequently illegally withheld from him: *Provided, however,* if any such property so tendered shall be of a perishable nature, or shall require feeding, or other sustentation, and the holder of such instrument be absent at the time of the tender, it shall be lawful for the person making the tender to preserve, feed, and otherwise take care of the same, and he shall have a lien on such tendered property for his reasonable trouble and the expense of feeding or sustaining such property, until payment be made for such trouble and expense.

§ 3. In all cases when a tender shall be made, and full payment be offered, by discount or otherwise, as the party by contract or agreement ought to do, and the party to whom such tender shall be made doth refuse the same, and yet afterwards will sue for the debt or goods so tendered, the plaintiff shall not recover any costs in such suit.

§ 4. A tender may also be made after an action is brought upon any contract, of the whole sum due thereon, with the legal costs of suit incurred up to the time of tender.

§ 5. The tender last mentioned may be made either to the plaintiff or his attorney in the suit, and the defendant may avail himself of it in defense, in like manner as if it had been made before the commencement of the

Art. I. How Township Organization Adopted.

action, bringing into court, if the tender is not accepted, the amount so tendered for costs, as well as for the debt or damages.

§ 6. Whoever is guilty of a trespass or injury may, at any time before or after suit brought, tender what he shall conceive sufficient amends for the injury done, and if suit has been commenced, also the costs of suit up to the time of making such tender, and if it shall appear that the sum tendered was sufficient amends for the injury done, and if suit had been commenced, was also sufficient to pay such costs, the plaintiff shall not be allowed to recover any costs incurred after such tender, but shall be liable to the defendant for his costs incurred after that time.

§ 7. When the defendant, upon whom any summons or warrant issuing from a justice of the peace shall be served, shall pay or tender to the constable the amount actually due, with all costs then accrued, and shall prove the same upon trial, and bring the money forward and deposit it with the justice of the peace, no costs which shall thereafter accrue shall be adjudged against him, but the plaintiff shall pay the same.

TOWNSHIP ORGANIZATION.

AN ACT TO REVISE THE LAW IN RELATION TO TOWNSHIP ORGANIZATION.

Approved March 4, 1874. In force March 4, 1874.

ARTICLE I.—HOW TOWNSHIP ORGANIZATION ADOPTED.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That at any general election that may be holden in the several counties in this state, the qualified voters in any county may vote for or against township organization in such county.

§ 2. The county board, on petition of fifty or more legal voters of said county, shall cause to be submitted to the voters of the county the question of township organization under this act, by ballot, to be written or printed, or partly written and partly printed, "For township organization" or "Against township organization," to be canvassed and returned in like manner as votes for county officers.

§ 3. The county clerk shall enter an abstract of the returns of said election, to be made out and certified as in elections for county officers, record the same at length upon the records of the county, and shall certify the same to the auditor of public accounts.

§ 4. If it shall appear by the returns of said election that a majority of the legal voters of said county are for township organization, then, the county so voting in favor of its adoption shall be governed by and subject to the provisions of this act on and after the first Tuesday of April next succeed-

ing: *Provided*, that a majority of the voters voting at such election shall be taken and deemed a majority of the voters of said county.

§ 5. The county board shall, at its next session, appoint three commissioners, residents of the county, to divide the county into towns. The commissioners so appointed shall be paid for their services by the county.

§ 6. The commissioners so appointed shall proceed to divide such county into towns, making them conform to the townships according to government surveys. Fractional townships may be attached to adjoining towns, where the number of the inhabitants or the amount of territory thereof shall not be sufficient for a separate town. Where a township shall have too few inhabitants for a separate organization, then such township may be added to some adjoining town, or divided between two or more towns, for the time being. And when a creek or river so divides a township that it is inconvenient for transacting town business, then such creek or river may be made the town boundary, and the fractions so formed may be disposed of as other fractional townships.

§ 7. Towns shall be named in accordance with the express wish of the inhabitants of the town, and if there shall not be a degree of unanimity as to the name, the commissioners may designate the name: *Provided*, that the county board shall have power to change the name of any town in their respective counties, upon a petition of a majority of the voters of said town: *And, provided, further*, that no two towns in the state shall have the same name.

§ 8. The commissioners so appointed shall make a written report of their proceedings, giving the names and bounds of each town, and present such report to the county clerk on or before the first day of March next succeeding.

§ 9. The county clerk shall, within thirty days after receiving such report of the commissioners, transmit by mail to the auditor of public accounts of this state, an abstract of such report, giving the bounds of each town and the name designated, and said clerk shall record, in a book kept for that purpose, the report of said commissioners.

§ 10. If the auditor of public accounts, on comparing the abstracts of the reports from the several counties, shall find that any two or more towns are named alike, he shall so inform the clerk of the county which last adopted such name, and the county board of such county shall, at its next meeting thereafter, adopt for such town some different name; and when such name shall be adopted, the county clerk shall inform the auditor of public accounts, as before directed.

§ 11. The auditor of public accounts shall keep a record of the names and boundaries of the several towns.

§ 12. The county board shall, at least twenty days before the first Tuesday in April next after the adoption of township organization, designate some central and convenient place in each town for the holding of the first

town election, and shall also appoint three suitable electors of the town as judges of said elections.

§ 13. The county clerk shall thereupon make out notices, stating the time (which shall be the first Tuesday of April thereafter) for holding the first town election, and the names of the judges of election so appointed, and deliver such notices to the sheriff of the county, who shall cause the same to be posted in not less than three of the most public places of the town, and not less than fifteen days before the time of the holding of such election.

§ 14. The first town election shall be conducted in the same manner as other town elections.

§ 15. The justices of the peace, and constables residing in any town organized pursuant to this act, shall continue to hold their office for the time for which they were elected, and shall be considered as justices and constables of such town; but if the number of justices of the peace and constables allowed by law shall not reside in any such new town, the electors thereof may, at the first town election, elect a sufficient number of justices and constables, who shall hold their offices until the next election at which justices of the peace and constables may be elected, as provided by law, and until their successors are elected and qualified.

§ 16. Of the commissioners of highways elected at the first election, one shall hold his office for one year, and one for two years, and the other for three years, to be determined between them by lot before entering upon the duties of their office, and until their respective successors are elected and qualified.

§ 17. If any town shall refuse or neglect to organize and elect town officers, the county board of the county may order another election for that purpose, and state the time and place of holding the same, notice of such election to be given as required for the first election.

§ 18. If the town shall not then organize and elect officers, the board may, at any regular or special meeting, appoint the necessary officers for such town, and the persons so appointed shall hold their offices until the next annual town meeting, and until their successors are elected or appointed and qualified.

§ 19. If the persons so appointed shall fail to qualify, as required by law, or if, at any time after the organization of the town, the electors thereof refuse to elect or appoint officers, or to exercise the powers required by law, the county board may annex such town to an adjoining town, and the town so annexed shall thereafter constitute a part of the town to which it is annexed.

§ 20. When, in any county under township organization, there is any territory co-extensive with the limits of a city situated therein, and which is not included within any organized town, such territory shall constitute a town by the name of such city, and all the provisions of this act shall apply

Art. II. Township Organization. - - - How Discontinued.

to the town so constituted, the same as if it had been organized in the manner provided in this act in the case of the organization of new towns.

ARTICLE II.—HOW DISCONTINUED.

SECTION 1. Upon the petition of at least one-fifth of the legal voters of any county having adopted township organization, to be ascertained by the vote cast at the last preceding presidential election, the county board shall cause to be submitted to the voters of such county, at the next general election, the question of the continuance of township organization, to be voted on by ballots, written or printed, or partly written and partly printed, "For the continuance of township organization," or "Against the continuance of township organization;" notice to be given, and the votes to be canvassed and returns made in like manner as in this act provided in reference to a vote on the adoption of township organization.

§ 2. If it shall appear, by the returns of said election, that a majority of the votes cast on that question, at said election, are against the continuance of township organization, then such organization shall cease in said county, as soon as a county board is elected and qualified; and all laws relating to counties not under township organization, shall be applicable to such county, the same if township organization had never been adopted in it.

§ 3. When township organization shall cease in any county, as provided in this act, a special election shall be held in such county on the first Monday of January next following, for three county commissioners, one of whom shall hold his office until the next general election of county commissioners, one until a year from the next general election, and the other until two years after the next general election, to be determined by lot, and until their successors are elected and qualified; and at every yearly general election after such special election, one such officer shall be elected.

§ 4. The county board elected at the special election, as provided in the next preceding section, shall assume the duties of their office on the first Monday of February next after their election, and shall be the legal successors to the county board of such county, and shall have all the rights and emoluments, and be subject to all the liabilities as provided in other cases of counties not under township organization.

§ 5. When township organization is discontinued in any county, the records of the several towns shall be deposited in the county clerk's office, and the county commissioners of the county shall have power to close up all unfinished business of the several towns, and sell and dispose of any of the property belonging to the town, for the benefit of the inhabitants thereof, as fully as might have been done by the towns themselves, and to pay all the indebtedness of any town existing at the time of such discontinu-

Art. III. Alteration of Boundaries, and Division of Towns, etc.

ance, and cause the amount thereof, or so much as may be necessary, to be levied upon the property of the town.

ARTICLE III.—OF THE ALTERATION OF BOUNDARIES, AND DIVISION OF TOWNS AND TOWN PROPERTY.

SECTION 1. The county board of each county shall have full and complete power and jurisdiction to alter the boundaries of towns, to change town lines, and to divide, enlarge and to create new towns in their respective counties, to suit the convenience of the inhabitants residing therein, but no new town shall be created, under the provisions of this act, of less territory than seventeen square miles, nor unless there shall be at least fifty legal voters residing in such new town, nor unless at least twenty of the legal voters of such town shall petition for such alteration; nor shall any new town be made, or any town divided, or the boundaries of any town changed by the county board, without notice thereof having been given by posting up notices in not less than five of the most public places in the town interested, or, if several towns are interested, in each of them, at least sixty days before the final action of the board, and also by publishing such notice at least three times in some newspaper published in the county wherein said towns are situated, if any shall be published therein: *Provided*, that no incorporated town shall be divided, except consent thereto is given by a majority of all the electors voting at a general annual election in said town—notice that the question of dividing said town will be submitted to the legal voters thereof having been given by the county clerk at the same time and in the same manner as the notice of said general annual election.

§ 2. When a town is divided into two or more towns, a new election shall be ordered in each of the new towns by the county board, and the time and place of holding the election shall be fixed, and judges of election appointed, and notice given in the same manner as required upon the first organization of towns: *Provided*, that when parts of several towns are taken to make a new town, it shall not be necessary to order an election in the towns from which territory is taken; but if any of the officers thereof shall continue to reside in the new town, his office shall be declared vacant, and filled as in other cases of vacancy.

§ 3. The officers elected or appointed at any such town meeting shall hold their offices until the next annual town meeting, and until their successors are elected and qualified; except that one of the highway commissioners so elected shall hold his office until the next annual meeting, one until the second annual meeting, and the other until the third annual meeting, to be determined between them by lot, and until their successors are elected and qualified, and except that any justice of the peace or constable so elected shall hold his office until the next general election of justices and constables, as fixed by law.

Art. III. Division of Town Property. - - - How Determined.

§ 4. The division or alteration of a town, after the making out of the assessor's books in any year, shall not in any manner affect the assessment or collection of the taxes assessable or collectable in that year, but the same may be assessed and collected in the same manner and by the same officers as if no division or alteration had taken place.

§ 5. When a town possessed of real estate shall be divided into two or more towns, the supervisors and assessors of the several towns constituted by such division shall meet as soon as may be after the first town meetings subsequently held in such towns, and when so met shall have power to make such agreement concerning the disposition to be made of such town property and the apportionment of the proceeds as shall be equitable, and to take all measures and execute all conveyances which may be necessary to carry such agreement into effect.

§ 6. When a part of any town possessed of real estate shall be annexed to another town or towns, or taken to form a part of a new town, the supervisors and assessors of the town from which such territory is taken, and of the town or towns to which the same shall be annexed, or of which it constitutes a part, shall, as soon as may be after such alteration, meet for the purpose and possess the powers provided in the last preceding section.

§ 7. When a town possessed of or entitled to money, rights or credits, or other personal estate, shall be divided or altered, such personal estate, including moneys, shall be apportioned between the towns interested therein by the supervisors and assessors of such towns according to the amount of taxable property in the town divided or altered as the same existed immediately before such division or alteration, to be ascertained by the last assessment list of such town; and such supervisors and assessors shall meet for the purposes aforesaid as soon as may be after the first town meetings subsequently held in such towns.

§ 8. Whenever a meeting of the supervisors and assessors of two or more towns shall be required, in order to carry into effect the provisions of this article, such meeting may be called by either of said supervisors; but the supervisor calling the same shall give at least ten days' notice in writing to all the other officers of the time and place at which such meeting is to be held.

§ 9. The preceding sections shall not, however, apply to any cemetery or burial ground, but the same shall belong to the town within which it may be situated after a division shall have been made.

§ 10. Debts owing by a town so subdivided or altered shall be apportioned in the same manner as the personal property of the town, and each town shall thereafter be charged with its share of such debts according to such proportionment.

§ 11. When the several towns cannot agree in relation to a division or apportionment of the real or personal property, or debts, or any part thereof, as provided in the six preceding sections, the dispute shall be sub-

Art. IV. Corporate Powers of Towns, and the Exercise thereof.

mitted to the county board of the county, whose decision in the matter shall be conclusive between the parties.

§ 12. The county board of each county shall have full power and jurisdiction to unite two contiguous towns into one; but no such towns shall be united except in the following manner, that is to say: Whenever one-fourth of the voters in each of the towns sought to be united shall petition the county board to unite such towns, said county board shall cause to be submitted to the voters of said towns, at a general annual election to be holden in each of such towns, the question of uniting. Notice of such election shall be given by causing written or printed notices thereof to be posted in five public places in each of said towns at least twenty days before such election, and by publishing the same in at least one newspaper (if any there be published) in each of said towns, or in a newspaper published in said county. The ballots cast at such elections to be written or printed, or be partly written and partly printed, "For uniting," or "Against uniting"—to be canvassed in like manner as votes for county officers, and returned to the county board, who shall cause the votes to be canvassed; and if a majority of voters of each town voting at such election shall vote for uniting such towns, such county board at the meeting at which such vote is canvassed, or at the next succeeding meeting, shall proceed to declare such towns united, and give the united towns a name, and define the boundaries thereof: *Provided*, that the officers of each of such towns shall continue to hold their respective offices, and discharge the duties thereof, during the remainder of the term for which they were respectively elected: *And, provided*, that the commissioners of highways for each of said towns in office at the time of such union shall continue in and discharge the duties of their respective offices during the remainder of the terms for which they were elected, and in the discharge of their duties shall act in conjunction: *And, provided, further*, that the union of such towns shall not be complete until the expiration of the terms of all officers in said town who are elected to serve for the period of one year.

ARTICLE IV.—CORPORATE POWERS OF TOWNS, AND THE EXERCISE THEREOF
— WHAT MAY BE DONE AT TOWN MEETINGS — BY LAWS, RULES AND
REGULATIONS.

SECTION 1. The corporate name of each town shall be: "The town of (name of town)," and all acts done by the town, and all actions by or against the town shall be in its corporate name.

§ 2. Every town shall have corporate capacity to exercise the powers granted thereto, or necessarily implied, and no others. It shall have power—

1. To sue and be sued.
2. To acquire by purchase, gift or devise, and hold property, both real and personal, for the use of its inhabitants, and again to sell and convey the same.

Art. IV. Powers of Towns. - - - Rules and Regulations.

3. To make all such contracts as may be necessary in the exercise of the powers of the town.

WHAT MAY BE DONE AT TOWN MEETINGS.

§ 3. The electors present at the annual town meetings shall have power—

1. To make all orders for the sale, conveyance, regulation or use of its corporate property that may be deemed conducive to the interests of its inhabitants.

2. To take all necessary measures and give directions for the exercise of their corporate powers.

3. To direct the raising of money by taxation for the following purposes :

First—For constructing or repairing roads, bridges or causeways within the town, to the extent allowed by law.

Second—For the prosecution or defense of suits by or against the town, or in which it is interested.

Third—For any other purpose required by law.

Fourth—For the purpose of building or repairing bridges or causeways in any other town in the same county or in another county: *Provided*, that notice is given by posting notices describing the location of the bridge or causeway, and the probable amount required therefor, in at least three public places, at least ten days before the meeting in the town in which the taxes are proposed to be levied: *And, provided, also*, that the tax, when collected, shall be paid only on the joint order of the commissioners of highways of the town in which the bridge or causeway to be built or repaired is situated, and those of the town in which the tax is collected.

4. To provide for the institution, defense or disposition of suits at law or in equity, in all controversies between the town and any other town, or any individual or corporation, in which the town is interested.

5. To prevent the introduction, growing or dissemination of Canada thistles or noxious weeds, and to allow rewards for their destruction, and to raise money therefor.

6. To offer premiums, and to take such action as shall induce the planting and cultivating of trees along the highways in such towns, and to protect and preserve trees standing along or on highways.

7. To make rules and regulations for ascertaining the sufficiency of all fences in such town, and to determine what shall be a lawful fence within the town, except as otherwise provided by law.

8. To restrain, regulate, or prohibit the running at large of cattle, horses, mules, asses, swine, sheep or goats, and to determine the time and manner in which such animals may go at large, unless the same are restrained from running at large in some manner provided by law.

9. To establish and maintain pounds at such places within the town

What may be Done at Town Meetings.

as may be deemed necessary and convenient, and discontinue any pounds therein. When any pound is erected it shall be under the care and direction of a pound master.

10. To determine the number of pound masters, to prescribe their duties, and to elect pound masters, either by ballot or in such other manner as they may determine or provide for their appointment.

11. To authorize the distraining, impounding and sale of cattle, horses, mules, asses, swine, sheep or goats for penalties incurred and costs of the proceeding: *Provided*, that the sale of animals distrained or impounded shall be conducted, as near as may be, according to the law regulating sales of property by constables under execution: *And provided, also*, the owner of such animals shall have the right to redeem the same from the purchaser thereof at any time within three months from the date of the sale, by paying the amount of the purchaser's bid, with reasonable costs for their keeping, and interest upon the amount bid at the rate of ten per cent. per annum.

12. To construct and keep in repair public wells or other watering places, and regulate the use thereof.

13. To prevent the deposit of night-soil or other offensive substances within the limits of the town.

14. To make all such by-laws, rules and regulations as may be deemed necessary to carry into effect the powers herein granted, and to impose such fines as shall be deemed proper, except when a fine or penalty is already allowed by law: *Provided*, no fine or penalty shall exceed fifty dollars for one offense.

15. To apply all penalties, when collected, in such manner as may be deemed most to the interests of the town.

§ 4. In towns in which there are incorporated cities or villages, the boundaries of which are co-extensive with the limits of the town, or the town lies wholly within the limits of an incorporated city or village, the electors shall not exercise the several powers contained in subdivisions of section three of this article, namely: 3, 5, 6, 7, 8, 9, 10, 11, 12 and 13; but all moneys necessary to be raised in such towns for town expenses shall be ascertained by the county board, and the county clerk shall extend the amount so ascertained upon the collector's books of such town, and when collected the same shall be paid over to the town supervisors the same as in other towns, and the powers and provisions of all cities and villages under their organic law shall not be repealed by any of the provisions of this article.

NOTICE OF BY-LAWS, ETC., TAKING EFFECT.

§ 5. It shall be the duty of the town clerk to cause all by-laws, rules and regulations of the town, within twenty days after their adoption, to be published by posting in three public places in the town; also, by causing the same to be inserted once in a newspaper published in the town, if any

Art. V. Legal Proceedings in Favor of and Against Towns.

there shall be; but all such by-laws, rules and regulations shall take effect and be in force from the date of being adopted, unless otherwise directed by the electors of the town.

EFFECT OF CERTAIN CONVEYANCES.

§ 6. Every conveyance or lease of land made to any person or persons in any manner, for the use and benefit of a town or its inhabitants shall have the same effect as if made to the town by its corporate name.

HOW CONVEYANCES MADE.

§ 7. When any conveyance of real estate is made by a town, the deed shall recite the order of town meeting directing the same, (which recital shall be *prima facie* evidence of the making and contents of such order,) and the deed shall be signed by the supervisor, in his official capacity, and attested by the clerk of the town, unless the meeting shall have ordered that the same be made by some other officer or persons.

ARTICLE V.—LEGAL PROCEEDINGS IN FAVOR OF AND AGAINST TOWNS.

SECTION 1. Whenever any controversy or cause of action shall exist between any towns of this state, or between any town and an individual or corporation, such proceedings may be had either at law or equity for the purpose of trying and finally settling such controversy, and may be conducted in the same manner, and the judgment or decree therein shall have the like effect as in other suits or proceedings of a similar kind between individuals and corporations. All process shall be served by leaving a copy of the writ or summons with the supervisor.

§ 2. In all such suits and proceedings, the town shall sue and be sued by its name, except where town officers shall be authorized by law to sue in their name of office for the benefit of the town.

§ 3. On the trial of every action in which the town is a party or interested, the electors and inhabitants of such town shall be competent witnesses and jurors, except that in suits and proceedings by one town against another, no inhabitant of either town shall be a juror.

§ 4. Any action in favor of a town, which, if brought by an individual, could be prosecuted before a justice of the peace, may be prosecuted by the town in like manner before any such justice.

§ 5. Whenever, by any decree or decision in any suit or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the right of any town shall be settled and confirmed, the court in which such proceedings shall be had may partition such lands according to the rights of the parties.

§ 6. In all suits or proceedings prosecuted by or against town officers,

Art. VI. Town Meetings. - - - Elections. - - - Judges of. - - - Special Meetings.

in their name of office, costs shall be recovered as in like cases between individuals. Judgments recovered against a town or against town officers, in actions prosecuted by or against them, in their name of office, shall be a town charge, and when collected, shall be paid to the person or persons to whom the same shall have been adjudged.

ARTICLE VI.—TOWN MEETING—JUDGES OF ELECTION.

SECTION 1. The annual town meeting, in the respective towns, for the election of town officers, and the transaction of the business of the town, shall be held on the first Tuesday of April in each year, at the place appointed for such meetings.

§ 2. Notice of the time and place of holding town meetings shall be given by the town clerk, or, in his absence, the supervisor, assessor, or collector, by posting written or printed notices in three of the most public places in the town, at least ten days prior to the meeting, and if there is a newspaper published in the town, by at least one publication therein, prior to the meeting.

§ 3. Each town shall, for the purposes of town meetings, constitute an election precinct.

§ 4. The place of holding elections shall be some convenient place in the town, to be fixed by the electors, at their annual town meetings.

§ 5. Whenever it is desired to change the place of holding town meetings, and any twenty-five electors shall, before the time of giving notice of an annual town meeting, file with the town clerk a request in writing that a change be made, designating the place to which the change is desired, a notice of such request shall be included in the notices of such meeting, and the electors may vote for or against such proposition. The ballots for the proposed change shall read: "For changing the place of holding town meetings to (name of place proposed);" those against shall read: "Against changing the place of holding town meetings;" and if a majority of all the votes cast for and against such change shall be in favor of changing to the place designated, the place shall be so changed.

§ 6. The supervisor, assessor and collector of the town shall be *ex-officio* judges of all elections in their town, except as other[wise] provided by law.

SPECIAL TOWN MEETINGS.

§ 7. Special town meetings shall be held, when the supervisor, town clerk and a justice of the peace, or any two of said officers, together with at least fifteen voters of the town, shall file in the office of the town clerk a statement, in writing, that a special meeting is necessary for the interests of the town, and setting forth the objects of the meeting.

§ 8. Notice of such special town meeting shall be given in the same manner and for the same length of time as other town meetings.

 Art. VII. Officers to be Elected. - - - Mode of Conducting Elections.

§ 9. The notice shall set forth the object of the meeting, as contained in the statement filed with the town clerk, and no business shall be done at a special meeting except such as is embraced in such statement and notice.

§ 10. The electors at special town meetings, when convened, shall have power:

First—To fill vacancies in the offices of town officers, when the same shall not have already been filled by appointment.

Second—To provide for raising money for repairing highways, or building or repairing bridges, in cases of emergency, and to direct the building and repairing thereof.

Third—To act upon any subject within the powers of the electors at any annual town meeting which may have been postponed for want of time, at the preceding annual town meeting, to be considered at a future town meeting.

ARTICLE VII.—TOWN OFFICERS ELECTED BY BALLOT—MODE OF CONDUCTING ELECTIONS FOR TOWN OFFICERS.

SECTION 1. At the annual town meeting in each town there shall be elected by ballot one supervisor, (who shall be, *ex officio*, overseer of the poor,) one town clerk, one assessor, and one collector, who shall severally hold their offices for one year, and until their successors are elected and qualified; and such justices of the peace, constables and highway commissioners as are provided by law: *Provided*, that in any town, or any city not included within the limits of any town (except in Cook county), having four thousand inhabitants, there shall be elected one additional supervisor, to be styled assistant supervisor; in towns having six thousand five hundred inhabitants there shall be elected two assistant supervisors, and so, for every additional twenty-five hundred inhabitants, there shall be elected one additional supervisor; the population of towns to be ascertained by the last federal or state census preceding the election: *Provided*, that nothing in this act shall be so construed as to diminish the representation that any city or town may now be entitled to by law. But in case such city or town is now entitled to a greater representation than is given by this section, it shall be entitled to no additional representation under this section; and the members of the board of supervisors from such city or town now provided for by law, shall continue to be elected as now required by law: *And, provided, further*, that whenever the representation of any city or town is or shall become less than is given by this section, no increased representation under any special act shall be had by such city or town, but its representation shall be as provided for in this section.

§ 2. The electors present, at any time between the hours of eight and nine o'clock in the forenoon of the day on which there is an annual or special town meeting, shall be called to order by the town clerk, if there be

one. In case there be none, or he is not present, then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such town meeting.

§ 3. The moderator so chosen shall have the same power and be subjected to the same penalties as other judges of election.

§ 4. Before the moderator of any town meeting shall enter upon the duties of his office he shall take an oath faithfully and impartially to discharge the duties of such office, which oath may be administered by the town clerk, or other proper officer.

§ 5. The town clerk last before elected, or appointed, shall be the clerk of the town meeting and shall keep faithful minutes of its proceedings, in which he shall enter, at length, every order or direction, and all rules and regulations made by such meeting.

§ 6. If the town clerk be absent, then such person as shall be chosen for that purpose by the electors present, shall act as clerk of the meeting.

§ 7. The town shall supply a suitable ballot box or boxes, to be kept and used in like manner as ballot boxes in other elections. In incorporated towns, or in incorporated villages whose limits are coëxtensive with the limits of a town, or in towns which lie wholly within the limits of an incorporated city, or in any organized town where the number of votes at the last preceding general election exceeded three hundred, the county board may require one or more additional ballot boxes and places for the reception of votes to be provided, which places shall be selected with reference to the convenience of the electors of the town, and shall designate at which of said polling places the town clerk shall act as clerk of the election, and such polling place, when so designated, shall be the place for transacting the miscellaneous business of the town; and when several places are so provided, the electors present shall choose from their number one assistant moderator, and one assistant clerk, for each additional ballot box, to receive the votes therein, who shall take the same oath and be subject to the same penalties as the moderator and clerk, and shall be under the direction of the moderator. At the closing of the polls all the said ballot boxes shall be brought together at the polling place where the town clerk acts as clerk of the election, and the votes shall be canvassed at the same time and in the same manner, and return thereof made the same, as if all the votes had been cast in the same ballot box. When more than one voting place shall be required by the county board, it shall be the duty of the town clerk to post up in three of the most public places in the town a notice of each of the places in the town where the county board have directed and required the election to be held: *Provided*, that in towns where there is no town clerk, it shall be the duty of the county clerk to post notices of election. When there shall be more than one polling place in a town, the general meeting for the transaction of miscellaneous business shall be held at the time hereafter mentioned, at the polling place where the town clerk acts as clerk of the town

 Art. VIII. Town Meetings for Transaction of Miscellaneous Business.

election, and in towns where there is no town clerk, at such place as shall be designated by the county clerk.

§ 8. The general laws of the state in regard to elections and qualifications of voters shall apply to all elections to be held under this act, so far as the same may be applicable, except as herein otherwise provided: *Provided*, that no registration of voters shall be required.

§ 9. A recess may be taken during the time necessary for the transaction of the business of the town, other than the election of officers by ballot.

§ 10. The canvas being completed, a statement of the result shall be entered at length, by the clerk of the meeting, in the minutes of the proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of the election to every person whose name shall be entered on the poll list as a voter.

§ 11. In case two or more persons shall have an equal number of votes for the same office, the question of which shall be entitled to the office shall be decided between such persons by lot, under the direction of the town clerk, but he shall give each party notice of the time and place of drawing lots.

§ 12. The clerk of every town meeting, within ten days thereafter, shall transmit to each person elected to any town office, whose name shall not have been entered on the poll list as a voter, a notice of his election.

§ 13. The town clerk shall file in the office of the county clerk a list of the names of all town officers elected at the annual town meeting, within twenty days after such election shall be held.

ARTICLE VIII.—THE MODE OF CONDUCTING TOWN MEETINGS FOR THE TRANSACTION OF MISCELLANEOUS BUSINESS.

SECTION 1. At the hour of two o'clock in the afternoon, on the day of an annual or special meeting, the polls shall be closed; and the moderator shall call the meeting to order for the transaction of miscellaneous business.

§ 2. The town clerk, if there be one, and he is present, shall act as clerk of the meeting, and shall keep faithful minutes of the proceedings in a book, to be known as the town record, in which he shall enter at length every order or direction, and all rules and regulations made by such meeting, which entry shall be signed by himself and the moderator of the meeting.

§ 3. If there is no such clerk present, the meeting shall choose a clerk *pro tem.*, who shall take a like oath as that required of the moderator, and shall act as clerk of the meeting.

§ 4. The moderator of such meeting shall preside thereat, make announcement of the business before the meeting, preserve order, and decide all questions of order.

§ 5. All questions upon motions made at town meetings shall be determined by a majority of the electors present and voting, and the moderator shall ascertain and declare the result of the vote upon each question.

Art. IX. Qualification and Tenure of Office.

§ 6. When the result of any vote shall, upon such declaration, be questioned by one or more of the electors present, the moderator shall make the vote certain by causing the voters to rise and be counted, or by dividing off.

§ 7. When the business of the meeting is concluded, the moderator shall make announcement thereof, and after such announcement is made, all miscellaneous business shall be deemed concluded for that day, unless the electors shall, at the time of such announcement, order otherwise; but in no event shall any question, which has been disposed of before such announcement, be thereafter reconsidered, unless the motion therefor is sustained by a number of votes equal to at least a majority of all the names entered on the poll list on that day up to the time of making such motion.

§ 8. If any person shall conduct in a disorderly manner at any such meeting, and, after notice from the moderator, shall persist therein, the moderator may order him to withdraw therefrom, and, on his refusing, may order any constable or other person to take him from the meeting, and confine him in some convenient place until the meeting is adjourned; and the person so refusing to withdraw shall, for such offense, forfeit a sum not exceeding ten dollars, for the use of the town, to be recovered in an action of debt in the name of the town, before any justice of the peace of the town.

§ 9. No person shall be allowed to vote or participate in any such meeting unless he shall be a qualified elector of such town.

§ 10. When the miscellaneous business of that day shall have been transacted, the moderator shall announce the polls of the election open, and the election shall proceed.

ARTICLE IX.—QUALIFICATION AND TENURE OF OFFICE.

SECTION 1. No person shall be eligible to any town office unless he shall be a legal voter, and have been one year a resident of such town.

§ 2. Every person elected or appointed to the office of supervisor, town clerk, assessor, commissioner of highways or collector, before he enters upon the duties of his office, and within ten days after he shall be notified of his election or appointment, shall take and subscribe, before some justice of the peace or town clerk, the oath or affirmation of office prescribed by the constitution, which shall, within eight days thereafter, be filed in the office of the town clerk.

§ 3. If any person elected or appointed to either of the offices above enumerated shall neglect to take and subscribe such oath, and cause the certificate to be filed as above required, such neglect shall be deemed a refusal to serve.

§ 4. Every person elected or appointed to the office of pound master, before he enters on the duties of his office, and within ten days after he shall have been notified of his election or appointment, shall cause to be filed in the office of the town clerk a notice signifying his acceptance of such

Art. IX. Qualification and Tenure of Office.

office. A neglect to cause such notice to be filed shall be deemed a refusal to serve.

§ 5. Every person elected to the office of collector, before he enters upon the duties of his office, shall give the bond required by law.

§ 6. If any person elected to the office of collector shall not give such security and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

§ 7. If any person elected to the office of supervisor, town clerk, assessor or commissioner of highways, shall refuse to serve, he shall forfeit to the town the sum of twenty-five dollars.

§ 8. If any town officer who is required by law to take the oath of office shall enter upon the duties of his office before he shall have taken such oath, he shall forfeit to the town the sum of fifty dollars.

§ 9. Town officers, except as otherwise provided, shall hold their offices for one year, and until others are elected or appointed in their places and are qualified.

§ 10. Whenever the term of any supervisor, town clerk or commissioner of highways shall expire, and other persons shall be elected or appointed to such office, it shall be the duty of such successor, immediately after he shall have entered upon the duties of the office, to demand of his predecessor all the books and papers under his control, belonging to such office.

§ 11. Whenever either of the officers above named shall resign, or the office become vacant in any way, and another person shall be elected or appointed in his stead, the person so elected or appointed shall make such demand of his predecessor, or of any person having charge of such books and papers.

§ 12. It shall be the duty of every person so going out of office, whenever thereto required pursuant to the foregoing provisions, to deliver, upon oath, all the records, books and papers in his possession or in his control belonging to the office held by him; which oath may be administered by the officer to whom such delivery shall be made. It shall also be the duty of every supervisor and commissioner of highways, so going out of office, at the same time to pay over to such successor the balance of moneys remaining in his hands as ascertained by the auditors of town accounts.

§ 13. Upon the death of any of the officers enumerated, the successor of such officer shall make such demand as above provided of the executors or administrators of such deceased officer; and it shall be the duty of such executors or administrators, to deliver, upon the like oath, all records, books and papers in their possession or under their control, belonging to the office, held by their testator or intestate.

ARTICLE X.—VACANCIES IN TOWN OFFICES AND THE MANNER OF FILLING THEM.

SECTION 1. Whenever any town shall fail to elect the proper number of town officers to which such town may be entitled by law, or when any person elected to any town office shall fail to qualify, or whenever any vacancy shall happen in any town, from death, resignation, removal from the town, or other cause, it shall be lawful for the justices of the peace of the town, together with the supervisor and town clerk, to fill the vacancy by appointment, by warrant under their hands and seals; and the persons so appointed shall hold their respective offices during the unexpired term of the persons in whose stead they have been appointed, and until others are elected and appointed in their places; and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected or appointed by the electors.

§ 2. Whenever a vacancy shall occur, from any cause, in any or either of the offices enumerated in the foregoing section, as composing the board of appointment for the appointing of town officers in case of vacancy, it shall be lawful for the remaining officers of such appointing board to fill any vacancies thus occurring, except in cases of vacancy in the office of justice of the peace or constable.

§ 3. When any appointment shall be made, as provided in the two preceding sections, the officers making the same shall cause the warrant of appointment to be forthwith filed in the office of the town clerk, who shall immediately give notice to each person appointed.

§ 4. The justices of the peace of a town may, for sufficient cause shown to them, accept the resignation of any town officer of their town, and whenever they shall accept any such resignation, they shall forthwith give such notice thereof to the town clerk of the town, who shall make a minute thereof upon the town records: *Provided*, that in towns having more than two justices of the peace, such resignation may be accepted by any two of them; and in case of the resignation of a justice of the peace or constable, the town clerk shall immediately, upon receiving notice thereof, transmit a copy of such notice to the county clerk.

ARTICLE XI.—THE SUPERVISOR AND HIS DUTIES.

SECTION 1. The supervisor, before entering upon the duties of his office, shall give bond to the town, with one or more sureties, in at least double the amount of money which may come into his hands, conditioned for the faithful discharge of his duties as such supervisor, and that he will safely keep and pay over all money entrusted to his keeping as such supervisor—such bond to be approved by the town clerk and filed in his office with such approval indorsed thereon. Whenever the town clerk shall ascertain that

Art. XII. Supervisors and Town Clerks. - - - Their Duties.

such bond has been forfeited, he shall institute suit against such supervisor. If the clerk shall fail or refuse to institute such suit, any person interested therein may institute the same.

§ 2. The supervisor of each town shall receive and pay out all moneys raised therein for defraying town charges, except those raised for the support of highways and bridges.

§ 3. He shall prosecute in the name of his town or otherwise, as may be necessary, for all penalties or forfeitures given by law to such town, or for its use, and for which no other officer is specially directed to prosecute, except as may be otherwise directed by the town meeting.

§ 4. He shall keep a just and true account of the receipts and expenditures of all moneys which shall come into his hands by virtue of his office, in a book to be provided for that purpose at the expense of the town; and said book shall be delivered to his successor in office.

§ 5. On Tuesday preceding the annual town meeting, he shall account to the board of auditors for all moneys received and disbursed by him in his official capacity.

§ 6. At every such accounting, the justices and town clerk, or a majority of them, shall enter a certificate in the supervisor's official book of accounts, showing the state of his accounts at the date of his certificate.

§ 7. The supervisors of each town, except the supervisors of towns in Cook county, shall attend all meetings of the county board of the county.

§ 8. He shall receive all accounts which may be presented to him against the town, and shall lay them before the board of town auditors at or before their next meeting.

§ 9. If any supervisor shall refuse, or shall willfully neglect to perform any of the duties of his office contained in the preceding sections of this article, he shall forfeit to the town the sum of fifty dollars, and be disqualified to act as the supervisor of said town.

§ 10. Assistant supervisors shall have no power or duties as town officers, but shall be members of the county board of their respective counties, and shall have and enjoy the same powers and rights as other members.

§ 11. The supervisors of towns in Cook county shall perform the same duties as supervisors of towns in other counties under township organization, except that they shall not be members of the county board, or exercise any of the powers thereof. They shall have the same compensation for their services as is or may be prescribed by law for similar services rendered by other supervisors of towns.

ARTICLE XII.—THE TOWN CLERK AND HIS DUTIES.

SECTION 1. The town clerk shall have the custody of all records, books and papers of the town, and he shall duly file all certificates or oaths and other papers required by law to be filed in his office. He is authorized to

Art. XIII. Board of Town Auditors.

administer oaths and take affidavits in all cases required by law to be administered or taken by town officers.

§ 2. He shall record in the book of records of his town the minutes of the proceedings of every town meeting held therein, and shall enter in said book every order or direction, and all by-laws, rules and regulations made by any town meeting.

§ 3. He shall deliver to the supervisor, before the annual meeting of the county board of the county, in each year, certified copies of all entries of votes for raising money, made since the last annual meeting of the county board.

§ 4. He shall, annually, at the time required by law, certify to the county clerk the amount of taxes required to be raised for all town purposes.

§ 5. If any town clerk shall willfully omit to make such return, he shall be fined, for each offense, not exceeding ten dollars.

§ 6. Copies of all papers, duly filed in the office of the town clerk, and transcripts from the town records certified by him, shall be evidence in all courts with like effect as if the originals were produced.

ARTICLE XIII.—THE BOARD OF TOWN AUDITORS.

SECTION 1. In each town the supervisor, town clerk and justices of the peace of the town shall constitute a board of auditors; said board shall consist of no less than three persons, and each person shall cast but one vote.

§ 2. In case of the absence of any or either of the said officers, or their failure to attend any meeting of the board, those attending may associate with them the collector or assessor of the town, or both, in the place of any absentee or absentees, as the case may be, who shall act for the time being as members of such board.

§ 3. Said board of auditors shall meet at the town clerk's office for the purpose of examining and auditing the town accounts, semi-annually, on the Tuesday next preceding the annual meeting of the county board, and on the Tuesday next preceding the annual town meeting.

§ 4. The board of auditors shall, at the same time and place as stated in section three, examine the accounts of the supervisor, overseer of the poor (where the town sustains its own poor) and the commissioners of highways of such town, for all the moneys received and disbursed by them, and shall also examine and audit all charges and claims against their town and the compensation of all town officers, except the compensation of supervisors for county services.

§ 5. The accounts so audited, and those rejected, if any, shall be delivered, with the certificate of the auditors, or a majority of them, to the town clerk, to be by him kept on file for the inspection of any of the inhabitants of the town. They shall also be produced by the town clerk at the next annual meeting, and shall be there read by him.

Art. XIV. Board of Health.

§ 6. The board of auditors may require any account presented to be verified by affidavit, setting forth that the same is correct and just, and is unpaid, or, if any part thereof has been paid, setting forth how much.

§ 7. The board shall make a certificate, to be signed by a majority of the said board, specifying the nature of the claim or demand, and to whom the amount is allowed, and shall cause such certificate to be delivered to the town clerk of said town, to be by him kept on file for the inspection of any of the inhabitants of said town; and the aggregate amount thereof shall be certified to the county clerk at the same time and in the same manner as other amounts required to be raised for town purposes, which shall be levied and collected as other town taxes, except that in towns mentioned in section four (4), Article IV, of this act, the amount shall be certified to the county board, who shall include the same in their estimate of the town expenses.

§ 8. The following shall be deemed town charges:

1. The compensation of town officers for services rendered their respective towns.
2. Contingent expenses necessarily incurred for the use and benefit of the town.
3. The moneys authorized to be raised by the vote of a town meeting, for any town purposes.
4. Every sum directed by law to be raised for any town purpose.

§ 9. The moneys necessary to defray the town charges of each town shall be levied on the taxable property in such town, in the manner prescribed in the act for raising revenue and other moneys for state and county purposes and expenses.

ARTICLE XIV.—BOARD OF HEALTH.

SECTION 1. The supervisors, assessor and town clerk of every town shall constitute a board of health, and on the breaking out of any contagious disease in their town or immediate vicinity, they shall have power to make and enforce any rules and regulations tending to check the spreading of such disease within the limits of such town, as they may think proper; and for this purpose they shall have power to shut up any house or place where any infected persons may be, and cause notices of warning to be put thereon, or remove such person to any house within the limits of said town, at the expense of the party so moved, if he be of sufficient ability to pay, or otherwise at the expense of said town: *Provided*, that nothing in this section shall apply to any town, or any part thereof, lying within the corporate limits of any incorporated city or village.

§ 2. The town clerk shall keep a full record of all the doings of said board, and report the same to the annual meeting of such town.

§ 3. The members of said board shall be allowed for their time spent in the performance of their said duties each the sum of one dollar and fifty cents per day, which, together with all bills by them contracted, and all

Art. XV. The Compensation of Town Officers.

sums of money by them expended, shall be audited by the board of auditors of such town, and be paid in the same manner as other town expenses.

ARTICLE XV.—THE COMPENSATION OF TOWN OFFICERS.

SECTION 1. The following town officers shall be entitled to compensation at the following rates for each day necessarily devoted by them to the service of the town in the duties of their respective offices:

1. The town clerk and supervisor shall receive for their services two and a half dollars per day when attending to town business out of town; one dollar and fifty cents for town business in their town: *Provided*, that the town clerk shall receive fees, and not a per diem, for the following services: For serving notices of election upon town officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or instrument of writing authorized by law, eight cents for each one hundred words; for copying any record in his office, and certifying to the same, eight cents for every one hundred words, to be paid by the person applying for the same; for copying by-laws for posting or publication, eight cents for each one hundred words, to be paid by the town. The town assessor shall receive for his services as assessor two and a half dollars per day.

2. The pound-master shall be allowed the following fees for his services, to-wit: For taking into the pound and discharging therefrom horses, asses, mules and neat cattle ten cents each; sheep or lambs, three cents each; and swine, large or small, five cents each. He may also be allowed to receive his reasonable charges for the keeping of such animals, and the amount which he shall charge therefor may be regulated by the town meeting.

3. The officers composing the board of appointment in case of vacancy, when they shall meet for that purpose, and the officers composing the board of town auditors, shall each be entitled to one dollar and fifty cents a day for their services.

No justice of the peace or town officer shall be entitled to any fee or compensation from any individual elected or appointed to a town office, for administering to him the oath of office.

§ 2. Whereas, the constitution requires that the day of holding the annual township meeting shall be uniform throughout the state; and whereas, in the county of Cook the day of election, as fixed by law, is not the same as that in the majority of the counties in this state, and there is doubt whether any election can legally be held in such county for town officers, an emergency exists that this act shall take immediate effect: therefore, this act shall take effect and be in force from and after its passage.

When Change of Venue in Civil Cases may be Taken, and How.

VENUE.

AN ACT TO REVISE THE LAW IN RELATION TO CHANGE OF VENUE.

Approved March 25, 1874. In force July 1, 1874.

CHANGE OF VENUE IN CIVIL CASES.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That a change of venue in any civil suit or proceeding in law or equity, including proceedings for the exercise of the right of eminent domain, may be had in any of the following cases:

First—Where the judge is a party or interested in the suit, or his testimony is material to either of the parties to the suit, or he is related to, or shall have been counsel for either party in regard to the matter in controversy. In any such case a change may be awarded by the court in term time, with or without the application of either party.

Second—Where either party shall fear that he will not receive a fair trial in the court in which the suit or proceeding is pending, because the inhabitants of the county are or the judge is prejudiced against him, or the adverse party has an undue influence over the minds of the inhabitants. In any such case the venue shall not be changed except upon application, as hereinafter provided, or by consent of the parties.

§ 2. When a change of venue is granted it may be to some other court of record of competent jurisdiction in the same county, or in some other convenient county, to which there is no valid objection: *Provided*, that when the action is pending in either the circuit or superior court of Cook county, and the only causes for a change of venue apply to one or more, but not all of the judges of such court, the case may be tried before some one of the judges of such court to whom the causes do not apply.

§ 3. Every application for a change of venue shall be by petition, setting forth the cause of the application, and praying a change of venue, which petition shall be verified by the affidavit of the applicant.

§ 4. If the cause for the change is the prejudice of the inhabitants of the county, or the undue influence of the adverse party over their minds, the petition shall set forth the facts upon which the petitioner founds his belief, and must be supported by the affidavits of at least two other reputable persons resident of the county. The adverse party may controvert the petition by counter affidavits, and the judge may grant or deny the petition as shall appear to be according to the rights of the case.

§ 5. The application may be made to the court in which the case is pending in term time, or to the judge thereof in vacation, reasonable notice thereof having been given to the adverse party or his attorney.

§ 6. No application for a change of venue after the first term shall be allowed, unless the party applying shall have given to the opposite party ten days' previous notice of his intention to make such application, except where the causes have arisen or come to the knowledge of the applicant within less than ten days before the making of the application.

§ 7. No change of venue shall be granted after the first term of the court at which the party applying might have been heard, unless he shall show that the causes for which the change is asked have arisen or come to his knowledge since the term at which the application might have been made.

§ 8. Neither party shall have more than one change of venue.

§ 9. When there are two or more plaintiffs or defendants, a change of venue shall not be granted unless the application is made by or with the consent of all the parties, plaintiff or defendant, as the case may be: *Provided*, that in proceedings for the condemnation of property, when the application is by or against all the owners of any parcel of property to be condemned, a change of venue may be made of so much of the case as affects them, if it can be done without prejudice to the other defendants, or plaintiffs in such proceeding.

§ 10. When a change of venue is granted in vacation, the judge granting it shall immediately transmit the petition and affidavits, and his order directing the change of venue, to the clerk of the court in which the cause is pending, who shall file the same in his office, and make an entry of such order on the records of the court.

§ 11. The order for a change of venue may be made subject to such equitable terms and conditions as safety to the rights of the parties may seem to require, and the judge in his discretion may prescribe.

§ 12. The expenses attending a change of venue shall be taxed by the clerk of the court from which the case is certified, according to the rates established by law for like services, and shall be paid by the petitioner and not taken as a part of the costs in the suit.

§ 13. The order shall be void unless the party obtaining a change of venue shall, within fifteen days, or such shorter time as the court or judge may prescribe, pay to the clerk the expenses attending the change.

§ 14. Where the venue is changed without the application of either party, the costs of such change shall abide the event of the suit.

§ 15. In all cases of change of venue, the clerk of the court from which the change is granted shall immediately make out a full transcript of the record and proceedings in the case and of the petition, affidavits, and order for the change of venue, and transmit the same, together with all papers filed in the case, to the proper court: *Provided*, that when the venue is changed, on behalf of a part of the defendants, to a condemnation proceeding, it shall not be necessary to transmit the original papers in the case, but it shall be sufficient to transmit certified copies of so much thereof as pertains to the case so changed. Such transcript and papers or copies may

Change of Venue in Criminal Cases. - - - When may be Taken.

be transmitted by mail, or in such other way as the court or judge may direct.

§ 16. The clerk of the court to which the change of venue is granted shall file the transcript and papers transmitted to him and docket the cause, and such cause shall be proceeded in and determined in all things as well before as after judgment as if it had originated in such court.

§ 17. All questions concerning the regularity of the proceedings in a change of venue, and the right of the court to which the change is made to try the cause and execute the judgment, shall be considered as waived after trial and verdict.

CHANGE OF VENUE IN CRIMINAL CASES.

§ 18. When any defendant in an indictment or information in any court in this state shall fear that he will not receive a fair and impartial trial in the court in which the case is pending, because the judge of the court is, or the inhabitants of the county in which the case is pending are prejudiced against him, the court shall award a change of venue upon the application of the defendant as hereinafter provided.

§ 19. When a change of venue is granted it may be to some other court of record of competent jurisdiction in the same county, or in some other convenient county to which there is no valid objection: *Provided*, that when the case is pending in the criminal court of Cook county and the cause for the change applies only to a judge of said court holding the court at the time of the trial, the case may be tried by any other of the judges of said court to whom the cause alleged does not apply.

§ 20. Every application for a change of venue shall be by petition setting forth the cause of the application and praying a change of venue, which petition shall be verified by the affidavit of the defendant.

§ 21. When the cause for a change of venue is the prejudice of the judge, the petition shall be accompanied by the affidavits of at least two reputable persons resident of the county, and not of kin or counsel to the applicant, that they believe the judge is so prejudiced against the applicant that he cannot have a fair and impartial trial; and thereupon the said judge shall change the venue of said cause.

§ 22. When the cause for the change of venue is the prejudice of the inhabitants of the county, against the defendant his petition shall set forth the facts on which he founds his belief, and the attorney, on behalf of the people, may deny the facts stated in the petition and support his denial by counter affidavits; and the judge may grant or deny the petition as shall appear to be according to the right of the case.

§ 23. The application may be made to the court in which the case is pending in term time or to the judge thereof in vacation, reasonable notice of the application having been given to the state's attorney.

§ 24. No application for a change of venue made after the first term,

In Criminal Cases, Clerk to make Transcript of Record.

shall be allowed unless the applicant shall have given to the state's attorney at least ten days' previous notice of his intention to make such application; except where the causes have arisen or come to the knowledge of the applicant within less than ten days before the making of the application.

§ 25. No change of venue shall be granted after the first term at which the applicant might have been heard, unless he shall show that the causes for which a change is asked have arisen or come to his knowledge since the term at which the application might have been made.

§ 26. No more than one change of venue shall be granted to the same defendant.

§ 27. When a change of venue is granted in vacation, the judge granting it shall immediately transmit the petition and affidavits and his order directing the change of venue to the clerk of the court, who shall file the same in his office and make an entry of such order on the records of the court.

§ 28. In all cases of change of venue the clerk of the court from which the change is granted shall immediately make a full transcript of the record and proceedings in the case, and of the petition, affidavits and order for the change of venue, and transmit the same, together with all papers filed in the case, including the indictment and recognizances of the defendant and all witnesses, to the proper court: *Provided*, that when the change is granted to a part but not all of several defendants, a certified copy of the indictment or information and of the other papers in the case shall be transmitted to the court to which the change of venue is ordered, and such certified copies shall stand as the originals. Such transcript and papers may be transmitted by mail or in such other way as the court or judge may direct.

§ 29. The clerk of the court to which the venue is changed shall file the transcript and papers transmitted to him and docket the case; and such case shall be proceeded in and determined in all things as well before as after judgment as if it had originated in such court.

§ 30. When the applicant is in custody or confined in jail, the court or judge shall make an order to the sheriff or other officer having custody of the applicant, to remove his body to the common jail of the county to which the venue is changed, and there deliver him to the keeper of said jail, together with the warrant by virtue of which he is confined or held in custody not more than three days next before the first day of the term of said court; and the sheriff shall obey such order and shall indorse on such warrant of commitment the reason of the change of custody, and shall deliver such warrant with the body of the prisoner to the keeper of the jail of the proper county, who shall receive the same and give to the sheriff a receipt therefor, and shall take charge of and keep the prisoner in the same manner as if he had originally been committed to his custody.

§ 31. When the venue shall be changed in any criminal case the parties and witnesses and all others who may have entered recognizances to attend

Termination of Trial. - - - Costs. - - - Judgment. - - - Acts Repealed.

the trial of such cause, having notice of the change of venue, must attend at the time and place at which the trial is to be had according to such change, and a failure to do so shall work a forfeiture of the recognizance.

§ 32. When the venue is changed in term time, the state's attorney shall have all the witnesses on the part of the prosecution recognized to appear at the court to which the change is ordered on the first day of the term at which the trial is to be had.

§ 33. Upon the termination of any trial when a change of venue has been obtained the clerk of the court in which the trial is had shall make out a statement, and shall certify to the same, of the costs, to the county in which the trial is had, for the fees and board of the jury, and of boarding the prisoner while in the jail of such county; and such account when so certified, shall be paid by the county in which such indictment or information was found; and all fines imposed and collected in the county where the trial is had shall be paid over to the county in which the indictment or information was found.

§ 34. Upon the entry of judgment or decree in any civil cause in which the venue has been changed it shall be lawful for the party in whose favor judgment or decree is rendered to file in the office of the clerk of the court where the suit was instituted a transcript of such judgment and decree, and said clerk shall enter the same in his judgment docket, and execution may issue thereon, and the same shall, from the time of filing such transcript, have the same operation and effect as if originally recovered in such court.

§ 35. All questions concerning the regularity of proceedings in obtaining changes of venue, and the right of the court to which the change is made to try the cause and execute the judgment, shall be considered as waived after trial and verdict.

§ 36. Chapter one hundred and five of the Revised Statutes of 1845, entitled "Venue," and an act entitled "An act to amend chapter one hundred and six of the Revised Statutes, entitled 'Venue,'" approved February 21, 1861, and an act entitled "An act to authorize the change of venue in certain cases," approved February 16, 1865, and all other acts and parts of acts inconsistent with the provisions of this act, are hereby repealed, except as herein re-enacted: *Provided*, that this section shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

Oath of Judges. - - - Seal. - - - Where Held.

CIRCUIT COURTS.

AN ACT TO REVISE THE LAW IN RELATION TO CIRCUIT COURTS AND THE
SUPERIOR COURT OF COOK COUNTY.*Approved February 16, 1874. In force July 1, 1874.*

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the several judges of the circuit courts of this state and of the superior court of Cook county, shall, before entering upon the duties of their office, take and subscribe the following oath or affirmation, which shall be filed in the office of the secretary of state:

"I do solemnly swear (or affirm, *as the case may be*) that I will support the constitution of the United States, and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the judge of ----- court, according to the best of my ability."

§ 2. The said courts, respectively, shall have a seal, and may, from time to time, as may be necessary, renew or alter the same. The expense of such seal and renewing and altering the same shall be paid by the county.

§ 3. The circuit courts of the several counties in this state shall be held in the court houses of such counties, except as otherwise provided by law; and the superior court of Cook county shall be held in the court house, in the county of Cook, except as otherwise provided by law.

§ 4. If there is no court house in the county, or, if from any cause the court house is unfit for the holding of court therein, the proper authorities of the county may temporarily provide another place at the county seat for the holding of court, or the court, by order entered upon its records, may adjourn to a suitable place, at such county seat, and the place so provided, or to which such adjournment is made, shall, during the time the court is so held thereat, be held to be the court house of such county for all judicial purposes connected with such court.

§ 5. If, by reason of war, rebellion, mob, pestilence or other public calamity, it is unsafe or inexpedient to hold a court at the time and place appointed by law, the judge or judges of the court may appoint another time and place for the holding of the same. Notice thereof shall be given in the same manner, as nearly as may be, as is required in case of a special term. The place appointed shall be at the nearest convenient place to that at which the court is appointed by law to be held.

§ 6. In such case the court may require the services of any sheriff or other proper officer of the county into which the court is removed, or of the county from which it may remove, to execute process and attend upon the court.

§ 7. It may also cause the grand and petit jurors to be summoned from either or both of such counties.

Circuit Courts. - - - Powers, etc. - - - Special Terms.

§ 8. And it shall have all the power and authority in either county which it might have exercised in the county where such court is appointed by law to be held, and may try and determine all causes, civil and criminal, which it might have tried and determined in such county, with like effect.

§ 9. The judge or judges of any circuit court, or the judges of the superior court of Cook county, may, at a regular term, or in vacation, appoint or call a special term of his or their court.

§ 10. If a special term is appointed at a regular term, an order to that effect shall be entered on the records of the court.

§ 11. If the appointment or call of such special term specifies the causes or particular matters that will be heard at such term, the business of such term shall be confined to such causes or matters. If no specification is made, the term shall be deemed to be for the transaction of all business that may be done at a regular term.

§ 12. Suits and proceedings may be instituted, and process made returnable, at such special term, in all causes and matters that may be heard thereat under the appointment or call; and all process in causes that may be heard at such term, which may have been made returnable at the next regular term, shall be deemed in law returnable to such special term, and all continuances in such causes to such regular term shall be deemed to be to such special term.

§ 13. Upon the appointment or calling of a special term of court, the clerk of the court shall give at least twenty days' notice thereof, by publication in some newspaper published in the county, or, if none is published in the county, then in a newspaper published nearest to the place of holding court, and by posting a notice in his office, and in four other of the most public places in the county. The notice shall state the time and place of holding the court, and in general terms what matters may be heard at such term.

§ 14. The clerk shall, also, twenty days before the commencement of such special term, notify the sheriff of the county and the state's attorney of the time and place of holding such special term.

§ 15. For omitting to give the notices specified in the two preceding sections, the court may impose a fine upon the clerk in any sum not exceeding five hundred dollars. But the failure to give such notice shall not prevent the holding of such term, or invalidate any of the proceedings thereat.

§ 16. Unless otherwise directed by the court, or judge, or judges, a grand and petit jury shall be summoned to attend such special term, in like manner as if the same were a regular term: *Provided*, the names of the jurors may be drawn at any time before the assembling of the court.

§ 17. If there is no judge attending on the day appointed for the commencement of any regular or special term of court, the court shall stand adjourned until the next day, and should a judge of such court not attend by four o'clock in the afternoon of the second day of the term, the court

Judges may Interchange. — — — Terms may be Held in Two Counties.

shall stand adjourned until the next succeeding term of the court; and all suits, writs, process, indictments, recognizances and other proceedings shall stand continued over until the next term of the court, as effectually as if the same had been continued by the order of the court.

§ 18. The circuit courts of the several counties of this state and the superior court of Cook county, when lawfully in session, may adjourn from day to day, or to any day not beyond the first day of the next term of the court.

§ 19. The several judges of the circuit and superior courts of Cook county holding different branches thereof may each in like manner adjourn the branch of the court held by him.

§ 20. If, at any time after the opening of court for the term, no judge of the court is present at the time and place of holding court, the sheriff of the county or his deputy may adjourn the court from day to day, or, upon the written order of the judge, from time to time, and shall give notice of such adjournment by making proclamation in the court house, and by notification posted on the door of the court house.

§ 21. All causes and proceedings pending and undisposed of in any of said courts at the end of a term shall stand continued until the next term of the court.

§ 22. Judges of the several circuit courts of this state may interchange with each other and with the judges of the superior court of Cook county, and the judges of said circuit courts and of the superior court of Cook county may hold court, or any branch of the court for each other, and perform each other's duties, where they find it necessary or convenient.

§ 23. Where a judge shall hold court, or a branch thereof, for another judge out of his circuit or judicial district, as provided in the preceding section (except in cases of interchange with each other), it shall be competent for the county board of the county in which he shall so hold court, in their discretion, to cause him to be paid, out of the county treasury, not exceeding ten dollars per day for the time he shall so hold the same.

§ 24. Regular or special terms of the circuit court may be held in two or more counties in the same circuit at the same time; and it shall not be necessary to close any regular or special term of the circuit court in any county before the business of said term shall be disposed of, in order to begin a regular or special term in any other county in the same circuit, if any circuit judge of the state shall consent, at the request of the presiding judge of said circuit, to preside over the pending term, or open and hold such special or regular term in such other county.

§ 25. All suits shall be tried in the county in which they are instituted, except as otherwise provided by law.

§ 26. The several circuit courts in this state and the superior court of Cook county may make and award such judgments, decrees, orders and

Process. - - - Powers. - - - Judgments. - - - Motions, etc., in Vacation.

injunctions, and shall issue all such writs and process as may be necessary or proper to carry into effect the powers granted to them.

§ 27. All process of either of said courts shall run in the name of the People of the State of Illinois; be directed to the proper officer or person; be tested in the name of the clerk of the court and be signed by him, sealed with the seal of the court, or, if there is no seal of the court, then with the private seal of the clerk, dated on the day on which it is issued, and made returnable according to law or the order of the court, when not otherwise provided.

§ 28. The respective courts in term time, and the several judges thereof in vacation, shall have power to award throughout the state, and returnable in the proper county, writs of injunction, *ne exeat*, *habeas corpus*, *quo warranto*, and all other writs and process that may be necessary to the due execution of the powers with which they are or may be vested.

§ 29. Any process which may be issued by any clerk of either of said courts, or any judge thereof, in pursuance of law, shall be executed by the officer or person to whom the same shall be directed, in any county or place in this state, and duly returned in the same manner that process usually is, or may be required to be executed and returned.

§ 30. When a cause or matter is taken under advisement by a judge of a circuit court, or of the superior court of Cook county, and the cause or matter is decided in vacation, the judgment, decree or order therein may be entered of record in vacation, but such judgment, decree or order may, for good cause shown, be set aside, or modified, or excepted to, at the next term of the court, upon motion filed on or before the second day of the term, of which motion the opposite party or his attorney shall have reasonable notice. If not so set aside or modified, it shall thereupon become final.

§ 31. If it is stipulated, of record, that a judgment, decree or order so entered of record shall be final, then such judgment, decree or order shall have the same force and effect as if it had been entered at the term preceding the time it is entered, subject to the right of appeal or writ of error: *Provided*, it shall not take effect as a lien, except from the date of the entry thereof.

§ 32. The several judges of said courts shall have power, in vacation, to hear and determine motions, to dissolve injunctions, stay or quash executions, to make all necessary orders to carry into effect any decree previously entered, including the issuance of necessary writs therefor, to order the issuance of writs of *certiorari*, to permit amendments in any process, pleading or proceeding in law or in equity. Any order so made shall be signed by the judge making it, and filed and entered of record by the clerk of the court in which the proceeding is had; and from the date of such filing shall have like force and effect as if made at a regular term of such court. The pendency of a term of court in another county than that in which the suit is pending,

Fifteenth Circuit. — — — Terms Fixed.

or about to be commenced by the same judge, shall not prevent the granting of such order.

§ 33. No such order shall be granted in vacation, unless the party applying therefor shall give the opposite party or his attorney of record reasonable notice of his intended application.

§ 34. The said courts may, from time to time, make all such rules for the orderly disposition of business before them as may be deemed expedient, consistent with law.

AN ACT TO AMEND SECTION ONE OF AN ACT ENTITLED "AN ACT CONCERNING CIRCUIT COURTS, AND TO FIX THE TIMES FOR HOLDING THE SAME IN THE SEVERAL COUNTIES IN THE JUDICIAL CIRCUITS IN THE STATE OF ILLINOIS, EXCLUSIVE OF THE COUNTY OF COOK," APPROVED MAY 2, 1873.

Approved January 12, 1874. In force January 12, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly*, That the sixteenth (16) paragraph of an act entitled "An act concerning circuit courts, and the times for holding the same in the several counties in the judicial circuits in the State of Illinois, exclusive of the county of Cook," approved May 2, 1873, be and the same is hereby amended so as to read as follows:

Fifteenth Circuit, Spring Term.—In the county of Vermilion, on the first Monday in February; in the county of Edgar, on the fifth Monday thereafter; in the county of Douglas, on the third Monday thereafter; in the county of Clark, on the second Monday thereafter; in the county of Coles, on the third Monday thereafter.

Fall Term.—In the county of Vermilion, on the second Monday in August; in the county of Edgar, on the fifth Monday thereafter; in the county of Douglas, on the fourth Monday thereafter; in the county of Clark, on the third Monday thereafter; in the county of Coles, on the third Monday thereafter.

§ 2. In consequence of the necessity for an immediate change of the time for holding such courts, an emergency is hereby declared to exist, requiring this act to take immediate effect; therefore, this act shall take effect and be in force from and after its passage.

Seventh Circuit. - - - Terms Fixed. - - - Frauds and Perjuries.

AN ACT TO AMEND "AN ACT ENTITLED 'AN ACT CONCERNING CIRCUIT COURTS, AND TO FIX THE TIME FOR HOLDING THE SAME IN THE SEVERAL COUNTIES IN THE JUDICIAL CIRCUITS IN THE STATE OF ILLINOIS, EXCLUSIVE OF THE COUNTY OF COOK,'" APPROVED MAY 2, 1873.

Approved March 26, 1874. In force March 26, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That paragraph eight, of section one, of an act entitled "An act concerning circuit courts, and to fix the time for holding the same in the several counties in the judicial circuits in the State of Illinois, exclusive of the county of Cook," be and the same is hereby amended, so as to read as follows:

"Seventh Circuit.—In the county of Grundy, on the third Monday of November and the second Monday of March.

"In the county of Will, on the first Monday of January, the first Monday of June, and the first Monday of October."

And all processes made returnable to the May term, 1874, as now established, shall be returnable on the first Monday of June next.

§ 2. By reason of the near approach of the May term of said court, an emergency exists, and this act shall be in force from and after its passage.

FRAUDS AND PERJURIES.

AN ACT TO REVISE THE LAW IN RELATION TO FRAUDS AND PERJURIES.

Approved February 16, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That no action shall be brought, whereby to charge any executor or administrator upon any special promise to answer any debt or damages out of his own estate, or whereby to charge the defendant upon any special promise to answer for the debt, default or miscarriage of another person; or to charge any person upon any agreement made upon consideration of marriage, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the promise or agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized.

§ 2. No action shall be brought to charge any person upon any contract for the sale of lands, tenements or hereditaments or any interest in or concerning them, for a longer term than one year, unless such contract or some

Evidence. - - - Fraudulent Transfer or Loan of Property.

memorandum or note thereof shall be in writing, and signed by the party to be charged therewith or some other person thereunto by him lawfully authorized in writing, signed by such party. This section shall not apply to sales upon execution or by any officer or person pursuant to a decree or order of any court of record in this state.

§ 3. The consideration of any such promise or agreement need not be set forth or expressed in the writing, but may be proved or disproved by parol or other legal evidence.

§ 4. Every gift, grant, conveyance, assignment or transfer of a charge upon any estate, real or personal, or right or thing in action, or any rent or profit thereof, made with the intent to disturb, delay, hinder or defraud creditors or other persons, and every bond or other evidence of debt given, suit commenced, decree or judgment suffered, with like intent, shall be void as against such creditors, purchasers and other persons.

§ 5. The foregoing section shall not affect the title of a purchaser for a valuable consideration, unless it appear that he had notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of such grantor.

§ 6. Every conveyance of goods and chattels on consideration not deemed valuable in law shall be taken to be fraudulent, unless the same be by will duly proved and recorded, or by deed in writing duly acknowledged or proved, and recorded as in the case of deeds of real estate, or unless possession shall really and *bona fide* remain with the donee.

§ 7. Where any loan of goods and chattels shall be pretended to have been made to any person, with whom or those claiming under him possession shall have remained for the space of five years, without demand made and pursued by due process at law, on the part of the pretended lender, or where any reservation or limitation shall be pretended to have been made of an use, or property by way of condition, reservation, remainder or otherwise, in goods or chattels, the possession whereof shall have remained in another as aforesaid, the same shall be taken, as to creditors and purchasers of the person aforesaid, so remaining in possession, to be fraudulent, and that the absolute property is with the possession, unless such loan, reservation, or limitation of use of property were declared by will or deed in writing, provided and recorded as aforesaid.

§ 8. This act shall not extend to any estate or interest in any lands, goods or chattels, or any rents, common or profit, out of the same, which shall be upon good consideration, and *bona fide* lawfully conveyed, or assured to any person, bodies politic or corporate.

§ 9. All declarations or creations of trusts or confidences of any lands, tenements or hereditaments, shall be manifested and proved by some writing signed by the party who is by law enabled to declare such trust, or by his last will in writing; or else they shall be utterly void and of no effect: *Provided*, that resulting trust or trusts created by construction, implication or

Wills. - - - Testaments. - - - Fraudulent Devised Property of Deceased Persons.

operation of law, need not be in writing, and the same may be proved by parol.

§ 10. All wills and testaments, limitations, dispositions or appointments of or concerning any lands and tenements, or of any rent, profit, term or charge, out of the same, whereof any person, at the time of his decease, shall be seized in fee simple, in possession, in reversion, or remainder, or have power to dispose of the same by his last will or testament, shall be deemed and taken (only as against the person, his heirs, successors, executors, administrators or assigns, and every of them whose debts, suits, demands, estates and interests, by such will, testament, limitation, disposition or appointment as aforesaid, shall, or might be in any wise disturbed, hindered, delayed or defrauded), to be fraudulent, void and of no effect, any pretense, color, feigned or presumed consideration, or any other matter or thing to the contrary notwithstanding.

§ 11. Any person, his heirs, devisees, executors, administrators, successors or assigns, and every of them, who shall or may have any debts, suits or demands against any person, who shall make any fraudulent devise as aforesaid, or who have any debts, suits or demands against any person who shall die intestate, and have real estate to his heirs, to descend according to the laws of this state, may have and maintain the same actions which lie against executors and administrators upon his bonds, specialties, contracts and agreements against the executors or administrators and the heirs, or against the executors or administrators and the devisees, or may join the executors or administrators, the heir or heirs, and the devisees of such obligor, and shall not be delayed for the non-age of any of the parties.

§ 12. When any lands, tenements or hereditaments, or any rents or profits out of the same, shall descend to any heir, or be devised to any devisee, and the personal estate of the ancestor of such heir or devisor of such devisee shall be insufficient to discharge the just demands against such ancestor, or devisor's estate, such heir or devisee shall be liable to the creditor of their ancestor or devisor to the full amount of the lands, tenements, or hereditaments, or rents and profits out of the same, as may descend or be devised to the said heir or devisee; and in all cases where any heir or devisee shall be liable to pay the debts of his executor or devisor, in regard of any lands, tenements or hereditaments, or any rent or profit arising out of the same, descending or being devised to him, and shall sell, alien or make over the same before any action brought, or process sued out against him, such heir at law or devisee shall be answerable for such debts to the value of the said lands, tenements and hereditaments, rents or profits so by him aliened or made over; and executions may be taken out upon any judgment so obtained against such heir or devisee, to the value of the said lands, tenements and hereditaments, rents and profits, out of the same, as if the same were his own proper debts, saving and excepting that the lands and tenements, rents and profits, by him

Suits against Heirs, Devisees, Executors, and Administrators.

bona fide aliened, before the action brought, shall not be liable to such execution.

§ 13. When any action or suit is brought against any heir or devisee he may plead *riens per descent*, at the time of the commencement of the action or suit, and the plaintiff in such action may reply that he had lands, tenements or hereditaments, or rents or profits out of the same, from his ancestor or devisor before the commencement of the action or suit, and if, upon issue joined thereupon, it be found for the plaintiff, the jury shall inquire of the value of the lands, tenements, hereditaments or rents and profits out of the same, so descended or devised, and thereupon judgment shall be given and execution awarded as aforesaid; but if judgment be given against such heir or devisee, by confessing of the action without confessing the assets descended or devised, or upon demurrer, or *nihil discit*, or default, said judgment shall be given for the plaintiff, without any writ to inquire of the lands, tenements or hereditaments, or rents and profits out of the same, so descended or devised.

§ 14. In all cases where a judgment has been obtained against the executor or administrator of a deceased person, on a contract or undertaking on which a joint action might have been maintained against the executor or administrator, and the heir or devisee of the deceased person, if it shall appear by a judgment of record or the return of a proper officer that there is not property of the deceased person in the hands of the executor or administrator to satisfy such judgment, it shall be lawful to bring a separate suit or action against the heir or devisee on such contract or undertaking; and the judgment against the executor or administrator, if not satisfied, shall be no bar to the suit or action against the heir or devisee.

§ 15. If no person shall administer on the goods and chattels of a deceased person for the space of one year after his death, a separate suit or action may be maintained against the heirs or devisees, on all the contracts and undertakings of such deceased person.

§ 16. In all actions or suits commenced under the provisions of the preceding sections, the facts authorizing the suits to be brought separately against the heirs or devisees shall be distinctly set forth in the declaration.

§ 17. When any suit or action in law or equity shall be brought against any heir or devisee, who shall be of non-age, it shall be lawful for the court to appoint a guardian *ad litem* for such infant heir or devisee, and may compel the person so appointed to act: *Provided*, that by such appointment such person shall not be rendered liable to pay any costs of suit.

Slander Defined. - - - Actions for. - - - Partition of Real Estate.

SLANDER AND LIBEL.

AN ACT TO REVISE THE LAW IN RELATION TO SLANDER AND LIBEL.

Approved March 23, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That if any person shall falsely use, utter or publish words, which, in their common acceptation, shall amount to charge any person with having been guilty of fornication or adultery, such words so spoken shall be deemed actionable, and he shall be deemed guilty of slander.

§ 2. It shall be deemed slander, and shall be actionable, to charge any person with swearing falsely, or with having sworn falsely, or for using, uttering or publishing words of, to or concerning any person, which, in their common acceptation, amount to such charge, whether the words be spoken in conversation of, and concerning a judicial proceeding, or not.

§ 3. In actions for slander or libel, an unproved allegation of the truth of the matter charged shall not be deemed proof of malice, unless the jury, on the whole case, find that such defense was made with malicious intent. And it shall be competent for the defendant to establish the truth of the matter charged by a preponderance of testimony.

PARTITION OF REAL ESTATE.

AN ACT TO REVISE THE LAW IN RELATION TO THE PARTITION OF REAL ESTATE.

Approved February 9, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That when land, tenements or hereditaments are held in joint tenancy, tenancy in common or co-parcenary, whether such right or title is derived by purchase, devise or descent, or whether any or all of the claimants are minors or of full age, any one or more of the persons interested therein may compel a partition thereof by bill in chancery as heretofore, or by petition in the circuit court of the proper county, or if the proceeding is in the county of Cook, in the circuit court or superior court of said county.

§ 2. The petition may be filed in the county where the premises or some part thereof is situated.

§ 3. Infants may petition by guardian, or next friend, and other persons under guardianship by their conservators.

§ 4. When an infant or person under guardianship is a defendant, he may appear by his guardian or conservator, or the court may appoint a guardian *ad litem* for such person, and compel the person so appointed to act.

§ 5. The petition shall particularly describe the premises sought to be divided, and shall set forth the interests of all parties interested therein, so far as the same are known to the petitioners, including tenants for years, for life, by curtesy, or in dower, and of all persons entitled to the reversion, remainder or inheritance, and of every person who, upon any contingency, may be or become entitled to any beneficiary interest in the premises, so far as the same are known to the petitioners, and shall pray for the division and partition of the premises according to the respective rights of the parties interested therein, or that if a division and partition of the same cannot be made without manifest prejudice to the owners, a sale thereof shall be made, and the proceeds divided according to the respective rights of the parties, and such petition shall be verified by affidavit.

§ 6. Every person having any interest, whether in possession or otherwise, who is not a petitioner, shall be made a defendant to such petition.

§ 7. When there are any persons interested in the premises whose names are unknown, or the share or quantity of interest of any of the parties is unknown to the petitioner, or where such share or interest shall be uncertain or contingent, or the ownership of the inheritance shall depend upon an executory devise, or the remainder shall be contingent, so that such parties cannot be named, the same shall be so stated in the petition.

§ 8. All persons interested in the premises of which partition is sought to be made according to the provisions of this chapter, whose names are unknown, may be made parties to such petition by the name and description of unknown owners of the premises, or as the unknown heirs of any person who may have been interested in the same.

§ 9. The defendants to any such petition shall be summoned in the same manner as defendants in suits in chancery.

§ 10. Unknown owners, or parties in interest, of the premises, and the unknown heirs of any such persons, may be notified by advertisement as in cases in chancery.

§ 11. When it shall appear by affidavit filed, as in cases in chancery, that any defendant resides or has gone out of this state, or upon due inquiry cannot be found, or is concealed within this state so that process cannot be served on him, and the affiant shall state the place of residence of such defendant, if known, or that upon diligent inquiry his place of residence cannot be ascertained, he may be notified in the same manner as in such case in chancery.

§ 12. Non-resident defendants may be served by a copy of the petition in the same manner that such defendants in chancery may be served by a

Commissioners to make Partition, and Report.

copy of the bill of complaint, and the service thereof may be proved as in such case provided.

§ 13. The petitioner may in his petition require the defendants or any of them to answer his petition on oath, in which case the answer shall have the same effect as an answer in chancery under oath.

§ 14. During the pendency of any such suit any person claiming to be interested in the premises to be assigned or apparted may appear and answer the petition, and assert his or her rights, by way of interpleader; and the court shall decide upon the rights of persons appearing as aforesaid, as though they had been made parties in the first instance.

§ 15. The courts shall ascertain and declare the rights, titles and interests of all the parties to such suit, the petitioners as well as the defendants, and shall give judgment according to the rights of the parties.

§ 16. The court, when it shall order a partition of any premises to be made, under the provisions of this act, shall appoint three commissioners, not connected with any of the parties, either by consanguinity or affinity, and entirely disinterested, to make partition of the premises.

§ 17. Such commissioners shall each take and subscribe an oath or affirmation fairly and impartially to make partition of the premises, according to the rights and interests of the parties, as declared by the judgment of the court, if the same can be done consistently with the interests of the parties; or if the same cannot be so divided without manifest prejudice to the parties in interest, that they will fairly and impartially appraise the value of each piece or parcel of the premises sought to be divided, and a true report make to the court.

§ 18. The commissioners shall go upon the premises, and if the same are susceptible of division they shall make partition thereof, allotting the several shares to the respective parties, quality and quantity relatively considered, according to their respective rights and interests as adjudged by the court, designating the respective shares by metes and bounds, or other proper description, and they may employ a surveyor with necessary assistants to aid therein: and if the premises are not susceptible of division without manifest prejudice to the parties in interest, they shall value each piece or parcel separately.

§ 19. The commissioners shall make report, in writing, signed by at least two of them, showing what they have done, and if they shall have made a division, describing the premises divided, and the shares of each party by metes and bounds or other proper description; or if they find that the lands cannot be divided, they shall so report, and shall report their valuation of each piece or tract separately.

§ 20. The commissioners shall, at all times, be subject to the direction of the court; and any one or more of them may, before the final confirmation of the report, be removed and others appointed in their stead.

§ 21. If the lands lie in different counties, the court may appoint sepa-

Allotment. - - - Mortgage Liens. - - - New Partition.

rate sets of commissioners for each county, or one set for all of them, as may seem most for the benefit of the parties interested.

§ 22. If dower has not been allotted to the person entitled thereto, or the homestead set off, in case any party to the suit is entitled to an estate of homestead in the premises, or any part thereof, such dower may be allotted and such homestead set off by the commissioners; and if the court shall so direct, the premises so allotted or set off may be partitioned among the claimants subject thereto.

§ 23. Several parties interested in the premises may, if they shall so elect, have their shares set off together or in severalty.

§ 24. A person having a mortgage, attachment, or other lien on the share of a part owner, shall be concluded by the judgment in partition, so far as it respects the partition and the assignment of the shares, but his lien shall remain in full force upon the part assigned to or left for such part owner.

§ 25. If a person to whom any share has been allotted is evicted by a person who, at the time of the partition, had a title older and better than the title of those who were parties to the suit, the person so evicted may have a new partition of the residue as if no partition had been made, if such new partition can be justly made, or he may have contribution from the others, so as to make his share just and equal with the others, according to his rights in the premises.

§ 26. When the whole or any of the premises sought to be partitioned cannot be divided without manifest prejudice to the owners thereof, and the commissioners appointed to divide the same shall so report, the court shall order the premises so not being susceptible of division to be sold at public vendue, upon such terms and notice of sale as the court shall direct.

§ 27. But no piece or parcel of the premises shall be sold, if it will not bring at least two-thirds as much as it shall have been valued by the commissioners, unless the other pieces will, at the same time, sell for enough to make the total amount of the sales equal to two-thirds the total amount of the valuation of all the premises to be sold: *Provided*, that if it shall appear to the court that any of the premises will not sell for two-thirds the amount of the valuation thereof, the court may appoint other commissioners to re-value such premises, and their valuation shall be taken instead of the valuation of the commissioners first appointed.

§ 28. The court may direct the sale to be made for cash or on such credit as may be deemed most for the interest of all the parties.

§ 29. The master, special commissioner, or other officer making such sale, shall report his doings in the matter.

§ 30. Upon the confirmation of the report the master, special commissioner or other officer making the sale, or some person specially appointed thereto, shall execute and deliver to the purchaser or purchasers of the premises sold proper onveyances thereof, taking in case of sale or credit

Proceeds of Sale. - - - No Claimant. - - - Conflicting Titles.

security as required by the decree; which conveyances shall operate as an effectual bar against all parties and privies to said proceedings and all persons claiming under them.

§ 31. The proceeds of the sale shall be divided according to the interests of the parties as directed by the court.

§ 32. In case of sale, the court may, with the assent of the person entitled to an estate, in dower or by the curtesy, or for life or for years, or of homestead, to the whole or any part of the premises, who is a party to the suit, sell such estate with the rest; but such assent shall be in writing, and signed by such person, and filed in the court wherein the said proceedings for partition are pending.

§ 33. If such persons are incapable of giving assent, the court may determine, taking into view the interests of all parties, whether such estate ought to be excepted from the sale, or sold.

§ 34. When any such interest is sold, the value thereof may be ascertained and paid over in gross or the proper proportion of the funds invested, and the income paid over to the party entitled thereto, during the continuance of the estate.

§ 35. If the person entitled to any such estate is unknown, the court may determine whether the estate shall be sold or not, as in case of persons under disability, and, in the event of sale, make such order for the protection of the rights of such person in the same manner, as far as may be, as if the person were known and had appeared.

§ 36. Where a sale of premises is made, and no person appears to claim such portion of the money as may belong to any non-resident or person whose name is unknown, the court shall require such money to be deposited in the state treasury, subject to the further order of the court, and all moneys so required to be deposited shall be received by the state treasurer and paid out upon the order of the court.

§ 37. When money is deposited in the state treasury, under the provisions of this act, the person or persons entitled to the same may, at any time, apply to the court making the order of sale, and obtain an order for the same, upon making satisfactory proof to the court of his right thereto.

§ 38. Amendments shall be allowed as in cases in chancery.

§ 39. In all suits for the partition of real estate, whether by bill in chancery or by petition, under this act, the court may investigate and determine all questions of conflicting or controverted titles, and remove clouds upon the titles to any of the premises sought to be partitioned; invest titles, by their decrees, in the parties to whom the premises are allotted, without the forms of conveyances by infants or unknown heirs or other parties to the suit; assign dower and order a sale of the premises, for the purpose of dividing the premises in proper cases, and by its decree invest the purchaser with title and apportion incumbrances among the parties to whom the incumbered premises are allotted.

Costs. — — — Laws Repealed.

§ 40. In all proceedings for the partition of real estate the court may apportion the costs, including the reasonable solicitor's fees, among the parties to the proceeding, so that each party shall pay his equitable portion thereof.

§ 41. Chapter seventy-nine of the Revised Statutes of 1845, entitled "Partitions," except section fourteen thereof, and an act entitled "An act to amend chapter seventy-nine of the Revised Statutes, entitled 'Partitions,'" approved February 12, 1861, and an act entitled "An act to amend chapter seventy-nine of the Revised Statutes of 1845, entitled 'Partitions,'" approved February 28, 1867, and an act entitled "An act to amend the statute relating to partitions," approved March 24, 1869, and so much of an act entitled "An act to amend chapter seventy-nine of the Revised Statutes of 1845," in force April 16, 1869, as refers to partition, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed, except as herein re-enacted: *Provided*, that this act shall not be so construed as to affect any rights existing or actions pending at the time this act shall take effect.

 1833. - - - Laws Repealed. - - - 1844-5.

REVISED STATUTES.

AN ACT TO REPEAL CERTAIN ACTS THEREIN NAMED.

Approved March 31, 1874. In force July 1, 1874.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly, That the following acts and parts of acts are hereby repealed:*

1833.

"An act relating to the administering of oaths in cases of the trial of impeachments, or other trials before the senate," approved January 18, 1833.

1839.

"An act to provide for the collection of demands growing out of contracts for sales of the possession of the public lands," in force February 2, 1839.

"An act to amend 'An act in relation to religious societies,'" approved March 2, 1839.

1843.

"An act to provide for the completion of the Illinois and Michigan canal, and for the payment of the canal debt," approved February 21, 1843.

"An act in relation to burying grounds, church grounds, and lands used by literary institutions," approved March 2, 1843.

"An act to exempt the property of colleges and common schools from taxation for a limited period," approved March 6, 1843.

"An act to provide for the receipt of the distributive share of this state of the proceeds of the sale of the public lands," approved February 21, 1843.

1844-5.

"An act for revising and consolidating the general statutes of the state of Illinois," approved March 3, 1845; except chapter 104, entitled "Trespass."

"An act to provide for canceling auditor's warrants," approved February 18, 1845.

"An act for the further restriction of imprisonment for debt," approved February 28, 1845.

"An act to fix the tenure of the office of master in chancery," approved March 3, 1845.

"An act in relation to masters in chancery," approved February 10, 1845.

"An act authorizing masters in chancery to grant writs of *certiorari*," approved March 3, 1845.

"An act to exempt burying grounds from taxes, executions and attachments," approved March 3, 1845.

"An act in relation to the election of county officers," approved February 27, 1845.

1844. — — — Laws Repealed. — — — 1845.

"An act authorizing county commissioners' courts to provide for the safe keeping and preserving all the public records belonging to said counties," approved March 3, 1845.

"An act to encourage the apprehension of horse thieves," approved February 26, 1845.

"An act to establish the Cook county court," approved February 21, 1845.

"An act to establish the Jo Daviess county court," approved March 1, 1845.

"An act relative to criminal jurisprudence," approved February 21, 1845.

"An act to amend an act entitled 'An act to prevent the unlawful driving away of cattle and other stock by drovers and other persons,' approved February 3, 1841," approved February 27, 1845.

"An act to amend an act entitled 'An act regulating the mode of taking depositions, and to provide for the perpetuating of testimony,' approved February 9, 1827," approved March 1, 1845.

"An act to regulate practice in the supreme and circuit courts," approved February 21, 1845.

"An act to authorize justices of the peace to take recognizances in certain cases," approved March 3, 1845.

"An act to extend the jurisdiction of justices of the peace and constables in actions of forcible entry and detainer, or forcible detainer only," approved February 25, 1845.

"An act to promote a more faithful discharge of the duties of probate justices of the peace, and for other purposes," approved March 3, 1845.

"An act to amend an act to provide for the election of probate justices of the peace," approved March 1, 1845.

"An act to authorize recorders to appoint deputies," approved February 26, 1845.

"An act concerning the revenue," approved February 11, 1845.

"An act to save a portion of the revenue from being lost," approved March 1, 1845.

"An act to amend the several laws allowing Illinois and Michigan canal to be taxed and sold for taxes," approved January 29, 1845.

"An act to amend an act entitled 'An act concerning public roads,' approved February 20, 1841," approved February 28, 1845.

"An act making certain fords a part of public roads," approved February 26, 1845.

"An act to authorize the secretary of state to subscribe for certain periodical works," approved February 21, 1845.

"An act supplementary to an act to establish and maintain common schools," approved March 1, 1845.

"An act to facilitate the collection of debts by executors and administrators in desperate cases," approved March 1, 1845.

"An act respecting the probate of wills," approved February 25, 1845.

1845. - - - Laws Repealed. - - - 1847.

"An act authorizing administrators and executors from other states to prosecute suits in this state," approved March 3, 1845.

"An act to amend an act relative to wills and testaments, executors and administrators and the settlement of estates," approved February 21, 1845.

"An act to amend 'An act authorizing counties to give a bounty on wolf scalps,' approved February fifteenth, one thousand eight hundred and forty-three," approved February 25, 1845.

"An act to provide for paying a portion of the interest on the state debt," approved March 1, 1845.

"An act supplemental to 'An act to provide for the completion of the Illinois and Michigan Canal, and for the payment of the canal debt,' approved February twenty-first, one thousand eight hundred and forty-three," approved March 1, 1845.

"An act to provide for the donation of lots in towns situated on canal lands to public purposes," approved February 28, 1845.

"An act concerning certain counties therein named," approved February 28, 1845.

"An act authorizing the survey of certain lands therein named," approved December 31, 1844.

"An act to protect owners of wood yards against the illegal acts of steamboat masters and officers," approved February 28, 1845.

"An act concerning the public treasury," approved February 21, 1845.

1847.

"An act in relation to the attorney general and state's attorneys," approved February 28, 1847.

"An act requiring the punctual discharge of duties by the attorney general and the several state's attorneys," approved February 25, 1847.

"An act to amend chapter sixteen of the Revised Statutes of this state," approved February 24, 1847.

"An act to amend the twenty-fourth chapter of the revised laws entitled 'Conveyances,' approved February 22, 1847.

"An act to fix the pay of county commissioners," approved January 16, 1847.

"An act allowing persons arrested on criminal charges to remove the place of examination as therein provided," approved February 11, 1847.

"An act to establish district courts in the state of Illinois," approved February 20, 1847.

"An act to amend the seventh section of the forty-seventh chapter of the revised laws of one thousand eight hundred and forty-five in relation to elections," approved February 23, 1847.

"An act to amend 'An act changing the estray law,' approved March third, eighteen hundred and forty-five," approved February 28, 1847.

1847. — — — Laws Repealed. — — — 1847.

“An act to provide for the apprehension of fugitives from justice,” approved February 27, 1847.

“An act to amend chapter forty-one of the Revised Statutes in relation to fees, approved March 3, 1845,” approved February 27, 1847.

“An act to raise the fees of grand and petit jurors,” approved February 4, 1847.

“An act to amend the law in relation to jails and jailors,” approved February 28, 1847.

“An act to provide for recording transcripts of judgments of justices of the peace,” approved February 27, 1847.

“An act in relation to lotteries and to prohibit the vending and selling of lottery tickets,” approved February 26, 1847.

“An act to amend the law in relation to marriages,” approved February 16, 1847.

“An act to amend the act entitled ‘mills and millers,’” approved February 26, 1847.

“An act in relation to change of names,” approved February 25, 1847.

“An act to protect the interests of orphans and minors and for other purposes,” approved February 16, 1847.

“An act to amend the law in relation to securities of guardians,” approved February 19, 1847.

“An act in relation to limited partnerships,” approved February 23, 1847.

“An act concerning practice,” approved March 1, 1847.

“An act to amend the practice act,” approved February 25, 1847.

“An act further to define the duties of probate justices,” approved February 19, 1847.

“An act relating to the qualification of certain officers therein named,” approved February 11, 1847.

“An act concerning the penitentiary,” approved February 26, 1847.

“An act in relation to certain public debtors,” approved February 23, 1847.

“An act to amend chapter eighty-seven of the Revised Statutes entitled ‘Records and recorders,’” approved March 1, 1847.

“An act for the relief of the inhabitants of incorporated towns,” approved March 1, 1847.

“An act to provide for forfeited recognizances,” approved February 28, 1847.

“An act to amend the present revenue law,” approved February 28, 1847

“An act to amend the eighty-ninth chapter of the revised laws entitled ‘Revenue,’” approved February 27, 1847.

“An act to amend the seventh section [of] a law concerning revenue, approved March third, one thousand eight hundred and forty-five,” approved February 16, 1847.

1847. - - - Laws Repealed. - - - 1849.

"An act to increase the revenue of the State of Illinois," approved February 19, 1847.

"An act to amend chapter 89 of the Revised Statutes," approved February 25, 1847.

"An act to amend the ninety-first chapter of the revised laws entitled 'Right of property,'" approved February 18, 1847.

"An act to suppress riots and regulating companies, and maintain the supremacy of the laws," approved February 26, 1847.

"An act to improve the roads in the Illinois bottom," approved February 27, 1847.

"An act to amend the several acts relating to public roads," approved February 17, 1847.

"An act to amend the twelfth section of the act entitled 'An act to establish and maintain common schools,' approved February 26, A. D. 1845," approved February 11, 1847.

"An act to authorize the levying and collecting of taxes for school purposes in the county of Iroquois, and for the sale of section 16, in township 25 north, range 11 west," approved February 28, 1847.

"An act relating to common schools in Kane and DeKalb counties," approved February 28, 1847.

"An act to amend an act in relation to the state library," approved January 26, 1847.

"An act in relation to tenants in common," approved February 16, 1847.

"An act to provide for vacating town plats," approved February 16, 1847.

"An act for the relief of incorporated towns," approved March 1, 1847.

"An act to fix the standard weight of coal," approved February 18, 1847.

"An act to amend 'An act concerning wills,'" approved February 11, 1847.

1849.

"An act for the incorporation of Boards of Trade and Chambers of Commerce," approved February 8, 1849.

"An act authorizing collectors of tolls and canal inspectors to administer oaths," approved February 8, 1849.

"An act relating to the supreme court rooms," approved January 31, 1849.

"An act establishing county courts and providing for the election of justices of the peace and constables, and for other purposes," approved February 12, 1849.

"An act to provide for the election of officers therein named," approved February 6, 1849.

"An act to provide for the mode of voting by ballot, and for the manner of returning, canvassing and certifying votes," approved February 12, 1849.

1849. — — — Laws Repealed. — — — 1849.

"An act to revive a part of a certain act therein named," in force January 2, 1849.

"An act to provide for the publication of estray notices," approved February 12, 1849.

"An act to amend the act entitled 'Fees and salaries,' chapter 41 Revised Statutes," approved February 12, 1849.

"An act to authorize the setting and protecting live fences on the side of public highways," approved February 12, 1849.

"An act for the incorporation of institutions of learning," approved January 26, 1849.

"An act to authorize the formation of corporations for manufacturing, agricultural, mining or mechanical purposes," approved February 10, 1849.

"An act to provide for copying and distributing the laws and journals, and for other purposes," approved February 12, 1849.

"An act to amend the interest laws of this state," approved January 30, 1849.

"An act for the security of personal liberty," approved February 12, 1849.

"An act authorizing the resignation of certain officers," approved February 10, 1849.

"An act amendatory to the practice act," approved February 12, 1849.

"An act for the relief of certain officers herein named," approved February 10, 1849.

"An act to amend the several acts concerning the public revenue," approved February 12, 1849.

"An act to provide for the collection of the revenue on forfeited property," approved February 12, 1849.

"An act to amend an act entitled 'An act to suppress riots and regulating companies, and maintain the supremacy of the laws,' approved February 26, 1847," approved January 25, 1849.

"An act to amend chapter fifty-nine of the Revised Statutes of 1845," approved February 8, 1849.

"An act to amend the twenty-fourth chapter of the Revised Laws, entitled 'Conveyances,'" approved February 8, 1849.

"An act to amend the sixty-sixth chapter of the Revised Statutes entitled 'Limitations,'" approved February 10, 1849.

"An act to amend chapter thirty-six of the Revised Statutes entitled 'Ejectments,'" Approved February 10, 1849.

"An act to amend the act entitled 'Evidence and Depositions,' Revised Statutes, chapter forty," approved February 12, 1849.

"An act concerning the jurisdiction of the State of Illinois over the Ohio river," approved February 9, 1849.

"An act to provide for the construction of plank roads by general law," approved February 12, 1849.

1849. - - - Laws Repealed. - - - 1851.

"An act to regulate the collection of the road tax," approved February 12, 1849.

"An act to authorize trustees of schools to lease school lands and lots," approved January 25, 1849.

"An act to amend an act in relation to the duties and fees of the secretary of state, and to diminish the public expenditures," approved February 2, 1849.

"An act for the improvement of sheep and to promote their increase," approved February 10, 1849.

"An act for the establishment of telegraphs," approved February 9, 1849.

"An act to incorporate towns and cities," approved February 10, 1849.

"An act to enable the auditor of public accounts to prosecute claims in favor of the state," approved November 6, 1849.

"An act to authorize the auditor of public accounts and county courts to refund the taxes on real estate sold in error," approved November 7, 1849.

"An act to provide for the filling of vacancies in certain county offices," approved November 6, 1849.

"An act to establish the jurisdiction of the circuit courts of the State of Illinois," approved November 3, 1849.

"An act to amend an act entitled 'An act establishing county courts, and providing for the election of justices of the peace and constables, and for other purposes,' approved February 12, 1849," approved November 3, 1849.

"An act to provide for a general system of railroad incorporations," approved November 5, 1849.

"An act supplemental to an act entitled 'An act to provide for a general system of railroad incorporations,' approved November 6, 1849.

"An act to authorize the formation of navigation and manufacturing companies on the Little Wabash and Saline rivers, and other navigable streams susceptible of slackwater navigation," approved November 6, 1849.

"An act to amend the several laws concerning limitation of actions," approved November 5, 1849.

"An act to amend the several acts concerning the public revenue," approved November 6, 1849.

1851.

"An act for the protection of state lands," approved January 23, 1851.

"An act to amend an act entitled 'An act for the incorporation of institutions of learning,' approved January 24, 1851.

"An act to amend chapter 104 Revised Statutes entitled 'Trespass,' approved January 28, 1851.

"An act relating to warehousemen, wharfingers and other persons, and to prevent fraud," approved January 28, 1851.

"An act to amend an act entitled 'An act to provide for the construction of plank roads by general law,' approved January 28, 1851.

1851. — — — Laws Repealed. — — — 1851.

"An act requiring county treasurers to give additional bonds in certain cases," approved February 1, 1851.

"An act to amend 'An act to provide for the construction of plank roads by a general law,' approved February 12, 1849," approved February 1, 1851.

"An act in relation to the penitentiary," approved February 10, 1851.

"An act to exempt homesteads from sale on execution," approved February 11, 1851.

"An act to provide for township organization," approved February 17, 1851.

"An act to amend the recording laws of this state," approved February 12, 1851.

"An act to amend chapter 25 of the Revised Statutes, entitled 'Corporations,'" approved February 13, 1851.

"An act in relation to the Illinois and Michigan canal and the canal lands," approved February 14, 1851.

"An act to amend chapter eighty-eight of the Revised Statutes, approved March 3, 1845, entitled 'Replevin,'" approved February 15, 1851.

"An act to amend an act entitled 'An act supplemental to an act entitled an act to provide for a general system of railroad incorporations,' approved November sixth, one thousand eight hundred and forty nine," approved February 15, 1851.

Section 2 of "An act to provide for the dedication of land for cemetery purposes," approved February 15, 1851.

"An act authorizing incorporated cities to change, alter and vacate streets or parts of streets," approved February 15, 1851.

"An act in relation to weights and measures," approved February 15, 1851.

"An act to amend chapter 39 of the Revised Statutes, entitled 'Estrays,'" approved February 15, 1851.

"An act to legalize assessments heretofore and hereafter to be made," approved February 15, 1851.

"An act to amend the 24th chapter of the Revised Statutes, entitled 'Conveyances,'" approved February 15, 1851.

"An act to amend Revised Statutes, chapter 81, entitled 'Penitentiary,'" approved February 15, 1851.

"An act to amend an act in force April thirteenth, one thousand eight hundred and forty-nine, entitled 'An act to establish and maintain common schools,'" approved February 15, 1851.

"An act supplemental to 'An act to provide for township organization,'" approved February 17, 1851.

"An act to enable the auditor of public accounts to collect the revenue," approved February 17, 1851.

1851. - - - Laws Repealed. - - - 1852.

"An act to amend the several acts relating to the election of county treasurer," approved February 17, 1851.

"An act to amend an act entitled 'An act to provide for the construction of plank roads by a general law,' approved February 17, 1851.

"An act to authorize the judges of the supreme court to enter orders and judgments in vacation," approved February 17, 1851.

"An act to authorize the circuit court of Cook county to appoint port wardens, and prescribing their duties," approved February 17, 1851.

"An act to amend chapter 9 of the Revised Statutes, entitled 'Attachments in circuit courts,' approved February 17, 1851.

"An act regulating the payment of money out of the treasury," approved February 17, 1851.

"An act authorizing an additional constable to be elected in Preston precinct, Randolph county," approved February 17, 1851.

"An act to establish a general system of banking," passed February 15, 1851.

"An act to amend the several laws in relation to limitations," approved February 17, 1851.

"An act to amend the general road law, and for other purposes," approved February 17, 1851.

"An act to authorize the election of one additional justice of the peace and constable in the county of Adams," approved February 17, 1851.

"An act to amend the laws in relation to the settlement of estates," approved February 17, 1851.

"An act to amend an act entitled 'An act establishing county courts, and providing for the election of justices of the peace and constables, and for other purposes,' approved February 17, 1851.

"An act to amend an act entitled 'Weights and Measures,' approved February 17, 1851.

"An act to amend an act entitled 'An act amendatory of the practice act,' approved February 16, 1849," approved February 17, 1851.

1852.

"An act to provide for the establishment and incorporation of hospitals for sick and disabled boatmen," approved June 18, 1852.

"An act to provide for the residence of paupers in Tazewell county," approved June 21, 1852.

"An act extending the jurisdiction of justices of the peace," approved June 22, 1852.

"An act to amend the law relating to contempts of court," approved June 22, 1852.

"An act to amend an act entitled 'An act to provide for the construction of plank roads by a general law,' approved February 12, 1849," approved June 22, 1852.

1852. — — — Laws Repealed. — — — 1853.

“An act to authorize the formation of corporate companies for the purpose of mining and transportation by a general law,” approved June 22, 1852.

“An act to amend the law condemning right of way for purposes of internal improvement,” approved June 22, 1852.

“An act to amend chapter 93 of the Revised Statutes, entitled ‘Roads,’” approved June 22, 1852.

“An act to amend the revenue law,” approved June 23, 1852.

“An act declaring certain lands exempt from taxation,” approved June 23, 1852.

“An act to provide for the incorporation of transportation companies,” approved June 23, 1852.

“An act to amend the revenue laws and provide for the collection of the state taxes in the city of Quincy,” approved June 23, 1852.

1853.

“An act for the assessment of property and the collection of taxes in counties adopting the township organization law,” approved February 12, 1853.

“An act supplemental to and explanatory of an act entitled ‘An act to establish a general system of banking,’ and to prevent the issuing and circulating of illegal currency,” approved February 10, 1853.

“An act to prohibit corporations from interposing the defense of usury in any action,” approved February 11, 1853.

“An act for the assessment of property,” approved February 12, 1853.

“An act to provide for bringing actions at law or in chancery against railroad companies,” approved February 12, 1853.

“An act respecting the practice in chancery in cases in the seventh judicial circuit in this state,” approved February 12, 1853.

“An act regulating the collection of the revenue in counties adopting the township organization law,” approved February 12, 1853.

“An act to amend the 14th chapter of the Revised Statutes, entitled ‘Conveyances,’” approved February 11, 1853.

“An act to prohibit the sale of intoxicating drinks,” approved February 12, 1853.

“An act to amend section first of an act to amend the act entitled ‘Fees and salaries,’ chapter 41, Revised Statutes,” approved February 11, 1853.

“An act entitled ‘An act in relation to foreign guardians,’” approved February 10, 1853.

“An act regulating the collection of the revenue,” approved February 12, 1853.

“An act in relation to appeals from justices of the peace,” approved February 9, 1853.

“An act in relation to non-resident guardians,” approved February 12, 1853.

1853. - - - Laws Repealed. - - - 1853.

"An act to amend chapter 47 of the Revised Statutes, entitled 'Guardians and Wards,'" approved February 8, 1853.

"An act to establish the sixteenth judicial circuit in the state of Illinois," approved February 9, 1853.

"An act respecting executors, administrators, guardians and their securities," approved February 12, 1853.

"An act to amend an act entitled 'An act to protect owners of wood-yards against the illegal acts of steamboat masters and officers,' approved February 28, 1845," approved February 12, 1853.

"An act to authorize the town of Rockford, in Winnebago county, to elect additional justices of the peace and constables, and for other purposes therein mentioned," approved February 12, 1853.

"An act to regulate the practice in the circuit court of Cook county, and the Cook county court of common pleas," approved February 12, 1853.

"An act to provide for the service of process on informations in the nature of a *quo warranto*," approved February 12, 1853.

"An act in relation to the evidence of the proceedings of corporations," approved February 12, 1853.

"An act to provide for reducing the state debt," approved February 12, 1853.

"An act to amend the act entitled 'An act to amend the law condemning the right of way for purposes of internal improvement,' approved June 22, 1852," approved February 12, 1853.

"An act to amend an act to provide for the construction of plank roads by general laws and the several laws amendatory thereto," approved February 12, 1853.

"An act to remedy a defect in the laws in relation to elections in the towns of North Chicago, South Chicago and West Chicago," approved February 12, 1853.

"An act requiring druggists and all persons dealing in medicines to label all medicines by them sold," approved February 12, 1853.

"An act to provide for the sale of the estates of insane persons," approved February 12, 1853.

"An act to amend the criminal code," approved February 11, 1853.

"An act to amend an act entitled 'An act to provide for a general system of railroad incorporations,'" approved February 12, 1853.

"An act to amend the 57th chapter of the Revised Statutes entitled 'Judgments and executions,'" approved February 12, 1853.

"An act to amend the school law in relation to the examination and qualification of teachers," approved February 11, 1853.

"An act in relation to conveyances of real estate by non-resident executors," approved February 8, 1853.

"An act to prohibit the killing of certain wild game, in certain counties therein named, at certain seasons of the year," approved February 12, 1853.

1853. — — — Laws Repealed. — — — 1854.

"An act in regard to indexes of records of deeds, mortgages and other instruments," approved February 12, 1853.

"An act concerning the descent of property in this state," approved February 12, 1853.

"An act to amend the revenue laws of this state," approved February 12, 1853.

"An act to amend section 6 of chapter 108 of the Revised Statutes of the State of Illinois, approved March 3, A. D. 1845," approved February 10, 1853.

"An act conferring additional powers and jurisdiction on the county courts," approved February 11, 1853.

"An act to amend section 6, chapter 77, of the Revised Statutes, entitled 'Officers,'" approved February 12, 1853.

"An act to regulate appeals in certain cases," approved February 8, 1853.

"An act to amend chapter 83 [Revised Statutes] entitled 'Practice,'" approved February 8, 1853.

"An act in relation to committals to jail upon writs of *ca. sa*," approved February 12, 1853.

"An act to increase the compensation of grand and petit jurors," approved February 12, 1853.

"An act to extend the jurisdiction of the county court of Lake county," approved February 12, 1853.

1854.

"An act to enable railroad companies and plank road companies to consolidate their stock," approved February 28, 1854.

"An act to facilitate the construction of railroads," approved March 1, 1854.

"An act for the better government of towns and cities, and to amend the charters thereof," approved February 27, 1854.

"An act to provide for the election of state superintendent of public instruction," approved February 18, 1854.

"An act to provide for a change of venue in the county courts," approved March 1, 1854.

"An act to amend the charters of the several towns and cities in this state," approved March 1, 1854.

"An act to amend an act entitled 'An act to provide for township organization,' and to extend the powers and duties of overseers of the poor," approved March 4, 1854.

"An act to amend 'An act to provide for township organization,'" approved February 17, 1851," approved February 27, 1854.

"An act to amend an act establishing county courts, approved February 12, 1849, and extending the jurisdiction of the La Salle, Winnebago, Boone and McHenry county courts," approved February 27, 1854.

1855.

"An act defining the duties of the auditor of public accounts relative to banks going into liquidation," approved February 14, 1855.

"An act to amend an act entitled 'An act to amend the act entitled 'Fees and salaries,' chapter 41, Revised Statutes,' approved February 14, 1855.

"An act to amend 'An act to establish a general system of banking, and the act supplementary thereto,' approved February 10, 1853," approved January 10, 1855.

"An act amending the 40th chapter of the Revised Statutes in relation to evidence," approved February 14, 1855.

"An act to amend an act entitled 'An act for the better government of towns and cities, and to amend the charters thereof,' approved February 27, 1854," approved February 15, 1855.

"An act to amend the assessment and revenue laws," approved February 14, 1855.

"An act to amend an act entitled 'An act to provide for township organization,'" approved February 14, 1855.

"An act to amend the 109th chapter of the Revised Statutes, entitled 'Wills,'" approved February 14, 1855.

"An act to regulate the agencies of insurance companies not incorporated by the state of Illinois," approved February 14, 1855.

"An act to establish and maintain a system of free schools," approved February 15, 1855.

"An act to fix the times of holding the circuit courts in the 16th judicial circuit, and to regulate the practice therein," approved February 9, 1855.

"An act to encourage the formation of county agricultural societies," approved February 14, 1855.

"An act to authorize boards of supervisors of the several counties to dispose of certain real estate therein named, and to confer upon them certain other powers," approved February 15, 1855.

"A bill for a general act of incorporation of agricultural and horticultural societies, and associations for improving the breeds of domestic animals," approved February 15, 1855.

"An act entitled 'An act to preserve the game in the state of Illinois,'" approved February 15, 1855.

"An act to amend chapter 36 of the Revised Statutes of 1845, entitled 'Ejectment,'" approved February 15, 1855.

"An act to extend the jurisdiction of justices of the peace," approved February 15, 1855.

"An act to amend the general plank road law," approved February 12, 1855.

"An act concerning inferior courts in the cities, approved February 15, 1855.

1855. — — — Laws Repealed. — — — 1855.

“An act to amend chapter 10 of the Revised Statutes, entitled ‘Attachment of boats and vessels,’” approved February 9, 1855.

“An act to extend the jurisdiction of the justices of the peace and police magistrates of the county of Peoria,” approved February 14, 1855.

“An act to authorize suits to be brought in the name of the county courts,” approved February 15, 1855.

“An act to amend an act entitled ‘An act to amend an act establishing county courts,’ approved February 12, 1849, and extending the jurisdiction of the La Salle, Winnebago, Boone and McHenry county courts, approved February 27, 1854, extending the jurisdiction of the Grundy county court,” approved February 15, 1855.

“An act to punish the fraudulent issue and transfer of certificates of stock in corporations,” approved February 14, 1855.

“An act to provide for the burial of the dead occurring on railroads, and in or by vehicles carrying passengers,” approved February 15, 1855.

“An act to authorize the purchase of books for the state library,” approved February 15, 1855.

“An act to amend chapter 25, division 3d, of the Revised Statutes of 1845, entitled ‘Religious societies,’” approved February 14, 1855.

“An act to amend an act entitled ‘An act establishing county courts, and providing for the election of justices of the peace and constables, and for other purposes,’” approved February 15, 1855.

“An act to amend chapter 93, Revised Statutes, entitled ‘Roads,’” approved February 15, 1855.

“An act to regulate the duties and liabilities of railroad companies,” approved February 14, 1855.

“An act to amend chapter 39 of the Revised Statutes, entitled ‘Estrays,’” approved February 15, 1855.

“An act to amend an act concerning weights and measures,” approved February 14, 1855.

“An act defining the duties of grand juries in the county of Jo Daviess,” approved February 12, 1855.

“An act to amend an act entitled ‘Fees and salaries,’ approved March 3, 1845, and an act amendatory thereto, approved February 12, 1849,” approved February 13, 1855.

“An act to amend an act entitled ‘Fees and salaries,’ chapter 41, Revised Statutes,” approved February 14, 1855.

“An act to amend an act entitled ‘An act to amend the act entitled ‘Fees and salaries,’ chapter 41, Revised Statutes, approved February 12, 1849,’” approved February 14, 1855.

“An act to incorporate Masonic and Odd Fellows’ Lodges, Divisions of the Sons of Temperance, and other benevolent societies,” approved February 15, 1855.

“An act to reclaim persons who have been decoyed or kidnapped and

1855. - - - Laws Repealed. - - - 1857.

taken away beyond the boundaries of this state," approved February 15, 1855.

"An act to provide for the incorporation of cemetery associations by general law," approved February 14, 1855.

"An act changing the time for holding the county court of the county of Adams," approved February 14, 1855.

"An act to apportion the interest on the school fund to new counties," approved February 15, 1855.

"An act to amend chapter 55 of the Revised Statutes, entitled 'Jails and jailors,' approved February 15, 1855.

"An act to amend an act entitled 'Fees and salaries,' approved March 3, 1845, and an act amendatory thereto, approved February 12, 1849," approved February 15, 1855.

"Section 3 of an act to enable railroad companies to enter into operative contracts, and to borrow money," approved February 12, 1855.

1857.

"An act to change the time of holding courts in the seventh and thirteenth judicial circuits, and to regulate the practice therein, and in the Cook county court of common pleas," approved January 14, 1857.

"An act declaring what counties shall compose the eighth judicial circuit, and fix the times of holding the courts, and regulate the practice in said circuit," approved February 11, 1857.

"An act to establish the twentieth judicial circuit in the State of Illinois," approved February 7, 1857.

"An act to amend 'An act to establish a general system of banking,' passed February 15, 1851, and the acts amendatory thereof," approved February 14, 1857.

"An act to amend section 23, of chapter 86, of the Revised Statutes," approved February 16, 1857.

"An act to give a uniform organization and jurisdiction to inferior courts of local jurisdiction in the cities in this state," approved February 10, 1857.

"An act to regulate the practice in the thirteenth judicial circuit," approved February 16, 1857.

"An act for the encouragement and security of loans of money," approved February 16, 1857.

"An act to protect the public state buildings in the city of Springfield, and the peace of the general assembly while in session," approved January 26, 1857.

"An act to amend the interest laws of this state," approved February 12, 1857.

"An act to amend section 11 of the Revised Statutes, entitled 'judgments and executions,' approved February 12, 1857.

1857. — — — Laws Repealed. — — — 1857.

"An act in relation to conveyances," approved February 14, 1857.

"An act to amend 'An act concerning the descent of real property in this state,' approved February 12, 1853," approved February 11, 1857.

"An act to amend the 60th chapter of the Revised Statutes, entitled 'Landlord and tenant,'" approved February 10, 1857.

"An act to authorize changes of venue from the county courts of LaSalle, Livingston and Grundy counties," approved January 28, 1857.

"An act to legalize ten per cent. interest, when it is agreed upon between parties," approved January 31, 1857.

"An act to amend 'An act to provide for township organization,' approved February 17, 1851," approved February 14, 1857.

"An act to extend the jurisdiction of justices of the peace and police magistrates in certain cases," approved February 5, 1857.

"An act to amend chapter 21 of the Revised Statutes of 1845," approved February 12, 1857.

"An act in relation to the rights of married women in certain cases," approved February 14, 1857.

"An act to amend chapter 10 of the Revised Statutes, entitled 'Attachments against boats and vessels,'" approved February 10, 1857.

"An act to amend 'An act to regulate the agency of insurance companies not incorporated by the State of Illinois, approved 14th of February, 1845,'" approved January 22, 1857.

"An act to amend an act entitled 'An act to provide for a general system of railroad incorporation, approved November 5, 1849,'" approved February 13, 1857.

"An act to amend an act entitled 'An act to provide for township organization, approved February 17, 1851,'" approved February 12, 1857.

"An act to provide additional bailiffs to wait upon circuit courts," approved February 16, 1857.

"An act to amend an act entitled 'An act to preserve the game in the state of Illinois, approved February 15, 1855,'" approved February 9, 1857.

"An act giving the judges of the supreme court power to appoint librarians, and to regulate compensation, etc. etc.," approved February 10, 1857.

"An act to amend chapter 41, Revised Statutes, entitled 'Fees and salaries,'" approved February 14, 1857.

"An act to amend 'An act to authorize the formation of corporations for manufacturing, agricultural, mining and mechanical purposes, approved February 10, 1849,'" approved February 18, 1857.

"An act to amend an act entitled 'An act to preserve the game in the state of Illinois, approved February 15, 1855,'" approved February 18, 1857.

"A general act for the incorporation of county agricultural societies," approved February 18, 1857.

"An act regulating practice in courts in certain cases," approved February 18, 1857.

1857. - - - Laws Repealed. - - - 1857.

"An act to amend chapter 102, Revised Statutes, entitled 'Steamboats,'" approved February 16, 1857.

"An act to amend an act entitled 'Religious societies,'" approved February 18, 1857.

"An act to amend chapter 59, Revised Statutes, entitled 'Justices of the peace and constables,'" approved February 18, 1857.

"An act to authorize the formation of corporations for transporting, forwarding and navigating on the lakes, rivers and canals, or any or either of them," approved February 17, 1857.

"An act to amend 'An act to exempt homesteads from sale on execution,'" approved February 17, 1857.

"An act giving county courts jurisdiction in certain cases therein named," approved February 18, 1857.

"An act to amend an act entitled 'An act to amend an act establishing county courts, approved February 12, 1844, and extending the jurisdiction of the La Salle, Winnebago, Boone and McHenry county courts, approved February 27, 1854,'" approved February 18, 1857.

"An act to repeal the sixth section of an act entitled 'An act to amend the act entitled 'Fees and salaries,' chapter 41, Revised Statutes, and to revive section 7, of chapter 41, of Revised Statutes,'" approved February 17, 1857.

"An act to provide for the manner of selling real estate of deceased persons for the payment of debts," approved February 18, 1857.

"An act to amend the several laws relating to plank roads," approved February 18, 1857.

"An act entitled an act to amend an act entitled 'Notaries public,' approved March 3, 1845," approved February 18, 1857.

"An act to extend the jurisdiction of the county court of Will county," approved February 16, 1857.

"An act to amend an act entitled 'An act to amend an act establishing county courts,' approved February 12, 1849, and extending the jurisdiction of La Salle, Winnebago, Boone and McHenry county courts, approved February 27, 1854," approved February 18, 1857.

"An act concerning sheriffs and jailers in this state," approved February 16, 1857.

"An act to amend chapter 51 of the Revised Statutes, entitled 'Inclosures and fences,'" approved February 18, 1857.

"An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," approved February 18, 1857.

"An act to amend 'An act to provide for township organization, approved February 17, 1851,'" approved February 16, 1857.

"An act to amend an act entitled 'An act to establish a general system of banking, passed February 15, 1851, and to facilitate the winding up of banks put into liquidation,'" approved February 18, 1857.

1857. — — — Laws Repealed. — — — 1859.

"An act to establish and maintain a system of free schools," approved February 16, 1857.

1859.

"An act concerning apprentices," approved February 16, 1859.

"An act further defining the crime of arson," approved February 23, 1859.

"An act regulating the manner of inflicting the punishment of death in capital cases," approved February 18, 1859.

"An act for the incorporation of benevolent, educational, literary, musical, scientific and missionary societies, including societies formed for mutual improvement or for the arts," approved February 24, 1859.

"An act to amend an act entitled 'An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes,' approved February 18, 1857," approved February 24, 1859.

"An act amendatory of the act approved March 3d, 1845, in relation to fire companies," approved February 24, 1859.

"An act authorizing corporations to call stockholders' meetings," approved February 11, 1859.

"An act to authorize courts in this state to hold over in cases where capital trials are pending," approved February 1, 1859.

"An act authorizing the judges of the supreme court to correct judgments in certain cases in vacation," approved February 18, 1859.

"An act to change [the] times of holding circuit courts in the county of Kendall in the ninth judicial circuit of the state of Illinois, and to regulate the practice therein," approved February 18, 1859.

"An act to fix the terms of court in the several counties comprising the eleventh judicial circuit, to regulate practice and to repeal a certain act in relation to the court of chancery in Will county," approved January 26, 1859.

"An act in relation to certain decrees in chancery and orders of court," approved February 19, 1859.

"An act to amend an act entitled 'An act to establish the Cook County Court,' approved February 21st, A. D. 1845, and for other purposes," approved February 17, 1859.

"An act to reform the probate system," approved February 21, 1859.

"An act to amend 'An act establishing county courts,' approved February 12, 1849, and to extend the jurisdiction of the county court of Vermilion county," approved February 24, 1859.

"An act to extend the jurisdiction of the county court of Bond county," approved February 19, 1859.

"An act extending the jurisdiction and regulating the practice in the county court of Lake county," approved February 19, 1859.

"An act to provide for the compensation of the county judge of Cook county," approved February 18, 1859.

"An act to provide for the compensation of the county judge of Cook county," approved February 24, 1859.

1859. - - - Laws Repealed. - - - 1859.

"An act for the protection of orchards, and to prevent the destruction of small birds," approved February 24, 1859.

"An act concerning judgment by confession," approved February 24, 1859.

"An act to provide for the recording of the original plats of school lands to perpetuate the same," approved February 24, 1859.

"An act to secure the state a lien in certain cases," approved February 19, 1859.

"An act relating to the law of limitation," approved February 19, 1859.

"An act to amend the criminal code and increase the punishment for manslaughter," approved February 19, 1859.

"An act to regulate mining," approved February 18, 1859.

"An act to provide for an easy and expeditious method of changing names," approved February 18, 1859.

"An act to authorize the board of supervisors or county courts to change the names of towns and villages," approved February 18, 1859.

"An act to extend the jurisdiction of the police magistrate of Mound City," approved February 24, 1859.

"An act in relation to practice in the supreme court," approved February 4, 1859.

"An act in relation to practice in the courts of this state," approved February 19, 1859.

"An act in relation to forfeited recognizances," approved February 21, 1859.

"An act in relation to repeal of laws by implication," approved February 19, 1859.

"An act giving justices jurisdiction in replevin," approved February 24, 1859.

"An act to amend section 2 of chapter 25, Revised Statutes," approved February 24, 1859.

"An act to amend section 52 of chapter 30 of the Revised Statutes," approved February 19, 1859.

"An act to amend chapter 83 of the Revised Statutes, entitled 'Practice,'" approved February 11, 1859.

"An act to provide for constructing, maintaining and keeping in repair plank, gravel or macadamized roads or pikes by a general law," approved February 21, 1859.

"An act to amend an act entitled 'An act to establish and maintain a system of free schools,' approved February 16, 1857," approved February 21, 1859.

"An act authorizing the board of supervisors in counties where township organization has been adopted, and in all other counties the county courts to vacate, change or re-locate state roads," approved February 18, 1859.

1859. — — — Laws Repealed. — — — 1861.

"An act providing for the vacation of streets, alleys and town plats," approved February 19, 1859.

"An act to amend the revenue laws," approved February 21, 1859.

"An act to amend an act entitled 'An act to provide for township organization,'" approved February 21, 1859.

"An act to change the time of holding town meetings in the county of Cook," approved February 24, 1859.

"An act amending section 4 of the act entitled 'Wills,'" approved February 24, 1859.

1861.

"An act regulating the practice in actions of account," approved February 22, 1861.

"An act to amend an act entitled 'A bill for a general act of incorporation of agricultural societies and associations for improving breeds of domestic animals,'" approved February 18, 1861.

"An act to revive and continue in force an act entitled 'An act to aid and encourage county agricultural societies,'" approved February 21, 1861.

"An act to change the practice in appeal cases," approved February 22, 1861.

"An act to amend the general banking law in such a manner as to afford greater security to the public," approved February 14, 1861.

"An act to provide for the better protection of the public bridges in this state," approved February 20, 1861.

"An act entitled 'An act to amend the law conferring power to make police regulations on board of trustees of the Illinois and Michigan Canal,'" approved February 22, 1861.

"An act to change the time for holding elections for judges and clerks and deputy clerks of the superior court of Chicago," approved February 22, 1861.

"An act to amend the practice in the Cook county circuit court, and in the superior court of Chicago, and to define the jurisdiction of the superior court of Chicago," approved February 22, 1861.

"An act in relation to town meetings in Cook county," approved February 21, 1861.

"An act to regulate the practice in the fourteenth judicial circuit," approved February 21, 1861.

"An act to change the times of holding court in Will county, and for other purposes," approved February 18, 1861.

"An act to amend 'An act to regulate the practice in the sixteenth judicial circuit, and to change the time of holding courts therein,' approved February 7, 1859," approved February 18, 1861.

"An act to fix the times of holding circuit courts in the county of Woodford, in the twenty-third judicial circuit, and to regulate the practice in said circuit," approved February 13, 1861.

1861. - - - Laws Repealed. - - - 1861.

"An act to establish the twenty-seventh judicial circuit; to declare what counties shall compose the eighth judicial circuit, and to fix the time of holding courts in said counties," approved February 4, 1861.

"An act to amend an act entitled 'An act to establish the twenty-seventh judicial circuit; to declare what counties shall compose the eighth judicial circuit, and to fix the times of holding courts in said counties,' approved February 11th, 1861," approved February 22, 1861.

"An act to establish the twenty-eighth judicial circuit, and to fix the limits of the thirteenth judicial circuit, and to change the times of holding courts in said thirteenth circuit and for other purposes," approved February 16, 1861.

"An act to regulate the practice of the circuit court in the county of Stephenson," approved February 20, 1861.

"An act declaring county courts at all times in session to hear and determine certain cases," approved February 22, 1861.

"An act to extend the jurisdiction of county courts in certain cases," approved February 22, 1861.

"An act to extend the jurisdiction of the circuit court of Gallatin county," approved February 21, 1861.

"An act to amend an act entitled 'An act to amend an act establishing county courts, approved February 12, 1849, and to extend the jurisdiction of the county court of Vermilion county,' approved 24th February, 1859," approved February 18, 1861.

"An act to amend the criminal code of this state," approved February 21, 1861.

"An Act to provide for uniformity in calculating days grace, maturity of bills, etc., declaratory of the law in relation thereto," approved February 22, 1861.

"An act regulating the publication of estray notices," approved February 21, 1861.

"An act concerning the exemption of personal property from levy or forced sale on execution or other process," approved February 22, 1861.

"An act to provide for the exemption of insurance money on homesteads," approved February 21, 1861.

"An act to prevent the catching of fish with a net or seine in the arm of the Illinois river, opposite the city of Peru, in LaSalle county," approved February 22, 1861.

"An act for the protection of growing fruit," approved February 22, 1861.

"An act to amend an act entitled 'An act to preserve the game in the State of Illinois,' approved February 15, 1855," approved February 21, 1861.

"An act to establish certain rules of evidence as to highways in counties adopting township organization," approved February 22, 1861.

"An act to authorize the sale of interests in incorporated companies on execution," approved February 22, 1861.

1861. - - - Laws Repealed. - - - 1861.

"An act in relation to damages in cases of injunction," approved February 21, 1861.

"An act in relation to landlord and tenant," approved February 21, 1861.

"An act in relation to the binding of the laws," approved February 21, 1861.

"An act for the publication of the laws and reports of this general assembly," approved February 22, 1861.

"An act to regulate the purchase and sale of lead mineral," approved February 22, 1861.

"An act in relation to the lien of operatives and others on the property of railroad corporations within this state," approved February 22, 1861.

"An act relating to the law of limitation," approved February 21, 1861.

"An act to protect married women in their separate property," approved February 21, 1861.

"An act to create additional justices of the peace and constables in McHenry county, Illinois," approved February 22, 1861.

"An act to encourage mining in the State of Illinois," approved February 20, 1861.

"An act in relation to the assessment of the property of railroad companies for taxation, in counties adopting the township organization law," approved February 21, 1861.

"An act to authorize railroad companies and transportation companies, and other corporations exercising the duties of common carriers, to dispose of unclaimed freight in certain cases," approved February 13, 1861.

"An act to amend the revenue law," approved February 21, 1861.

"An act to amend an act entitled 'An act regulating the collection of the revenue in counties adopting the township organization law,' approved February 12, 1853," approved February 22, 1861.

"An act to amend the 9th chapter of the Revised Statutes, entitled 'Attachments,'" approved February 22, 1861.

"An act to amend chapter 16 of the Revised Statutes of 1845, entitled 'Bastardy,'" approved February 22, 1861.

"An act to amend chapter 20 of the Revised Statutes of 1845, entitled 'Chattel mortgages,'" approved February 12, 1861.

"An act to amend chapter 24 of the Revised Code of 1845, entitled 'Conveyances,'" approved February 21, 1861.

"An act to amend chapter number 39 of the Revised Statutes, concerning 'Estrays,'" approved February 22, 1861.

"An act to amend section 17, of chapter 41, of the Revised Statutes, entitled 'Fees and salaries,'" approved February 20, 1861.

"An act to amend an act entitled 'An act to amend the act entitled 'Fees and salaries,' chapter 41, Revised Statutes,' approved February 12, 1849, and for other purposes," approved February 22, 1861.

"An act to amend the statute in relation to forcible entry and detainer and landlord and tenant," approved February 20, 1861.

"An act to amend section 16, of chapter 47, of Revised Statutes, entitled 'Guardian and ward,'" approved February 21, 1861.

"An act to amend section 38, of chapter 57 of the Revised Statutes, entitled 'Judgments and executions,'" approved February 22, 1861.

"An act to amend chapter 52 of the Revised Statutes of 1845, entitled 'Insolvent debtors,'" approved February 21, 1861.

"An act to amend chapter LIX. of the Revised Statutes, entitled 'Justices of the peace and constables,'" approved February 18, 1861.

"An act to amend chapter 65 of the Revised Statutes of 1845, entitled 'Liens,'" approved February 18, 1861.

"An act to amend chapter 76 of the Revised Statutes of 1845, entitled 'Oaths and affirmations,'" approved February 21, 1861.

"An act to amend section 2d, of chapter 83 of the Revised Statutes, entitled 'Practice,'" approved February 22, 1861.

"An act to amend chapter 80, section 23, of Purple's Statutes of the State of Illinois," approved February 13, 1861.

"An act to amend sections 12 and 13, of chapter 80, of the Revised Statutes, entitled 'Paupers,'" approved February 22, 1861.

"An act to amend chapter 79 of the Revised Statutes, entitled 'Partition,'" approved February 12, 1861.

"An act to amend chapter 106 of the Revised Statutes, entitled 'Venue,'" approved February 21, 1861.

"An act to amend chapter 30 of the Revised Statutes of 1845," approved February 20, 1861.

"An act to amend the school laws," approved February 22, 1861.

"An act to amend the free school law of Illinois, as amended and approved February 21, 1859," approved February 22, 1861.

"An act to authorize the payment of certain script, coupons, certificates and other evidences of state indebtedness," approved February 22, 1861.

"An act to provide for the interest on the state debt," approved February 22, 1861.

"An act to provide for the reception and preservation of the maps, plats, field notes and other documents pertaining to the United States surveys in this state, and for making authenticated copies thereof," approved February 22, 1861.

"An act to relieve the people of this state from the payment of exorbitant and unnecessary taxes," approved February 8, 1861.

"An act to prevent the transmission of falsehood by telegraph," approved February 21, 1861.

"An act to reduce the act to provide for township organization and the several acts amendatory thereto, into one act, and to amend the same," approved February 20, 1861.

1861. — — — Laws Repealed. — — — 1863.

"An act to prevent illegal voting at elections," approved February 21, 1861.

"An act to provide for ascertaining the qualification of voters and to prevent fraudulent voting," approved February 22, 1861.

"An act to prevent the pollution of water in this state," approved February 21, 1861.

"An act to protect the transportation of troops, provisions and munitions of war in this state," approved May 1, 1861.

"An act to prevent the use of telegraphs for illegal and revolutionary purposes," approved May 2, 1861.

"An act to encourage the formation and equipment of volunteer companies," approved May 2, 1861.

"An act to empower guardians and the board of guardians of the Chicago Reform School, and all other persons holding similar relations to minors, to consent to the enlistment of wards, and those committed to their care, within the age of twenty-one years, to enlist either as volunteers or in the regular army of the United States," approved May 3, 1861.

"An act for the relief of the volunteer soldiers of this state," approved May 3, 1861.

"An act to prevent rendering aid to rebels," approved May 3, 1861.

1863.

"An act to amend an act establishing county courts, approved February 12, 1849, and to extend the jurisdiction of the county courts of Crawford, Jasper, Cumberland, Lawrence, Richland, Clay, Hamilton, Rock Island and Mercer counties," approved February 21, 1863.

"An act to fix the times of holding courts in the 16th judicial court, and to regulate the practice therein," approved January 29, 1863.

"An act to fix the terms of the circuit courts in the counties of Will and Grundy, to regulate the practice in said Will county circuit court, and to repeal certain acts in relation to practice and chancery proceedings in said court," approved February 12, 1863.

"An act to regulate the practice of the circuit court in the county of Stephenson," approved June 12, 1863.

"An act to enable counties owing debts to liquidate the same," approved February 16, 1863.

"An act to extend the jurisdiction of the county court of DeKalb county," approved February 12, 1863.

"An act regulating the practice in assessing damages," approved February 14, 1863.

"An act in reference to fees and salaries," approved January 15, 1863.

"An act in regard to fees of county clerks," approved February 13, 1863.

"An act to amend an act approved February 21, 1861, entitled 'An act to amend an act entitled 'An act to preserve the game in the State of Illinois,' approved February 15, 1865,' " approved February 12, 1863.

1863. - - - Laws Repealed. - - - 1865.

"An act to extend the jurisdiction of justices of the peace," approved June 13, 1863.

"An act for the better security of mechanics erecting buildings in the State of Illinois," approved February 14, 1863.

"An act in relation to masters in chancery," approved June 13, 1863.

"An act for the government and discipline of the Illinois State Penitentiary," approved February 20, 1863.

"An act to regulate practice in the courts of the county of Kane and State of Illinois," approved February 14, 1863.

"An act relating to actions of replevin before justices of the peace," approved February 12, 1863.

"An act to amend chapter 30 of the Revised Statutes, entitled 'Criminal jurisprudence,' approved February 13, 1863.

"An act to amend chapter 65 of the Revised Statutes of 1845, entitled 'Liens,' approved February 14, 1863.

"An act to amend chapter 25, division three, of the Revised Statutes of 1845, entitled 'Religious societies,' approved February 20, 1863.

"An act to amend chapter 40 of the Revised Statutes, entitled 'Evidence and depositions,' approved February 21, 1863.

"A bill for an act to amend chapter 59 of the Revised Statutes of 1845," approved February 21, 1863.

"An act to amend chapter 59 of the Revised Statutes, entitled 'Justices of the peace and constables,' approved February 21, 1863.

"An act to amend chapter 71 of the Revised Statutes, approved March 3, 1845," approved February 13, 1863.

"An act in relation to road tax," approved February 13, 1863.

"An act in relation to the reports of the decisions of the supreme court," approved June 1, 1863.

"An act to make United States legal tender treasury notes and postage currency receivable for taxes, and for redemption from tax sales," approved January 12, 1863.

"An act to amend the township organization laws," approved February 12, 1863.

1865.

"An act to amend the law allowing appeals to the supreme court," approved February 16, 1865.

"An act to abolish the office of bank commissioner," approved February 13, 1865.

"An act to define the duties of the auditor in regard to the preparation of bank note plates and impressions, and to afford greater security in the safe keeping of the same," approved February 16, 1865.

"An act to amend an act entitled 'An act to authorize the formation of corporate companies for the purpose of mining and transportation,' by a general law, approved June 22, 1852," approved February 16, 1865.

1865. — — — Laws Repealed. — — — 1865.

"An act to amend an act entitled 'An act respecting the practice in chancery cases in the seventh judicial circuit in this state,' passed February 12, 1853, so that said act shall apply to the eleventh judicial circuit in this state," approved February 16, 1865.

"An act to fix the time of holding courts in the county of DeKalb and State of Illinois, and to regulate the practice thereof," approved February 16, 1865.

"An act to change the times of holding courts in the twenty-seventh judicial circuit and to attach certain counties thereto, and to fix the time for holding courts therein, and for other purposes," approved February 10, 1865.

"An act giving circuit courts concurrent jurisdiction with incorporated towns and cities, and punish violations of the liquor law by indictment," approved February 16, 1865.

"An act to extend the jurisdiction of courts of chancery in cases of foreclosure of mortgages," approved February 16, 1865.

"An act to extend the jurisdiction of the county court of LaSalle county," approved February 16, 1865.

"An act in relation to the assignment of dower," approved February 16, 1865.

"An act authorizing a wife whose husband is a lunatic or distracted person to release dower in certain cases," approved February 16, 1865.

"An act to facilitate the drainage of wet lands," approved February 19, 1865.

"An act to enable the qualified electors of this state absent therefrom in the military service of the United States, in the army or navy thereof, to vote," approved February 16, 1865.

"An act in relation to the fees of state's attorneys," approved February 14, 1865.

"An act in relation to the fees of the secretary of state," approved February 16, 1865.

"An act in relation to the fees of certain officers in certain counties therein named," approved February 16, 1865.

"An act to prevent enlistments in this state of persons as substitutes for citizens of other states," approved February 16, 1865.

"An act to regulate the fees and compensation of sheriffs and collectors in certain counties," approved February 16, 1865.

"An act for the preservation of game," approved February 16, 1865.

"An act in relation to the transportation of grain and other produce," approved February 14, 1865.

"An act to provide for a board of health in each township in those counties adopting township organization," approved February 16, 1865.

"An act requiring the clerks of the circuit courts (and county courts having common law jurisdiction) of the several counties in this state to keep indexes to their court records," approved February 16, 1865.

1865. - - - Laws Repealed. - - - 1865.

"An act to require the Illinois Central Railroad Company to pay a tax on all their property not exempt by the laws of its charter, and to require the purchasers of land from said company to pay a tax upon said lands," approved February 16, 1865.

"An act in relation to the state library," approved February 16, 1865.

"An act in regard to life insurance," approved February 16, 1865.

"An act to extend the provisions of an act entitled 'An act for the better security of mechanics erecting buildings in the state of Illinois,' approved February 14, 1863," approved February 16, 1865.

"An act to authorize and legalize the use of printed records by the clerks of the several circuit and county courts, and for other purposes," approved February 16, 1865.

"An act to reduce the several acts in relation to printing and binding into one act, and to amend the same," approved February 16, 1865.

"An act relating to rafts and lumbermen," approved February 16, 1865.

"An act to amend the law for the consolidation of railroads," approved February 16, 1865.

"An act to subject railroad companies to pay damages for violating city or town ordinances," approved February 16, 1865.

"An act in relation to the reports of the decisions of the supreme court," approved February 8, 1865.

"An act to amend chapter nine of the Revised Statutes, entitled 'Attachments in circuit courts,'" approved February 13, 1865.

"An act to amend chapter ten of the Revised Statutes of 1845 of the State of Illinois, entitled 'Attachments of boats and vessels,'" approved February 16, 1865.

"An act to amend chapter thirty of the Revised Statutes, entitled 'Criminal Jurisprudence,'" approved February 16, 1865.

"An act to amend section sixty-two of chapter thirty of the Revised Statutes, entitled 'Criminal jurisprudence,' and for other purposes," approved February 15, 1865.

"An act to amend chapter thirty-four of the Revised Statutes, of eighteen hundred and forty-five, entitled 'Dower,'" approved February 13, 1865.

"An act to amend chapter forty-three of the Revised Statutes, entitled 'Forceful entry and detainer,'" approved February 16, 1865.

"An act to amend chapter forty-seven of the Revised Statutes, entitled 'Guardians and wards,'" approved February 16, 1875.

"An act to amend chapter fifty of the Revised Statutes of 1845," approved February 16, 1865.

"An act to amend chapter sixty of the Revised Statutes of 1845, entitled 'Landlords and tenants,'" approved February 16, 1865.

"An act to amend chapter ninety-three of the Revised Statutes," approved February 16, 1865.

"An act to amend the school law," approved February 16, 1865.

1865. — — — Laws Repealed. — — — 1867.

"An act to punish persons for bringing diseased sheep into the state, and for suffering diseased sheep to run at large," approved February 16, 1865.

"An act to perfect the statute laws of this state," approved February 8, 1865.

"An act to regulate the transmission of communications by telegraph," approved February 16, 1865.

"An act to define more accurately the method of computing time and interest, or discounts for days and months," approved February 16, 1865.

"An act for the protection of fruit, fruit and ornamental trees, shrubbery and vegetable products," approved February 15, 1865.

"An act for the protection of growing fruit," approved February 16, 1865.

"An act to make United States legal tender notes and postage currency receivable for taxes, and for redemption from tax sales," approved January 16, 1865.

"An act in relation to the vacation of streets, squares, lanes, alleys and highways," approved February 16, 1865.

"An act to authorize the change of venue in certain cases," approved February 16, 1865.

1867.

"An act to regulate the payment of the state librarian," approved March 5, 1867.

"An act to furnish the state library," approved March 5, 1867.

"An act to enable the governor to appoint a warden, and to provide for the government and discipline of the State Penitentiary," approved March 6, 1867.

"An act for the reformation of juvenile offenders and vagrants," approved March 5, 1867.

"An act to create the office of attorney general, and prescribing his duties," approved February 27, 1867.

"An act to amend an act entitled 'An act to enable the auditor of public accounts to collect the revenue,' approved February 17, 1851," approved March 5, 1867.

"An act to amend the general banking law so as to permit the withdrawal of securities in certain cases," approved February 28, 1867.

"An act to repeal and amend the several laws in relation to banks in this state," approved March 7, 1867.

"An act to fix the time of holding the term of the circuit court in Henry county, in the sixth judicial circuit," approved March 7, 1867.

"An act to fix the time for holding the terms in the seventh judicial circuit, and concerning jurors in said county," approved March 9, 1867.

"An act to fix the time of holding the courts in the tenth judicial circuit," approved February 21, 1867.

"An act to fix the time of holding courts in the fifteenth judicial circuit,

1867. - - - Laws Repealed. - - - 1867.

and to establish terms for the disposal of criminal cases and for other purposes," approved February 5, 1867.

"An act to regulate the practice in the circuit court of Stephenson county," approved February 20, 1867.

"An act to amend an act entitled 'An act to provide additional bailiffs to wait upon circuit courts,' approved February 16, 1857," approved February 28, 1867.

"An act to amend an act entitled 'An act to establish the Cook county court, approved February 21, 1845, and the acts amendatory thereto, and for other purposes,'" approved February 25, 1867.

"An act to amend an act entitled 'An act establishing county courts, and providing for the election of justices of the peace and constables, and for other purposes,' approved February 12, 1849," approved February 25, 1867.

"An act to change the time of holding the county court of Cook county," approved February 28, 1867.

"An act to enable county courts to settle up estates of deceased persons and minors," approved March 5, 1867.

"An act to fix the compensation of judges and associate judges of the county courts of certain counties therein named," approved March 5, 1867.

"An act to amend an act entitled 'An act to extend the jurisdiction of the county court of DeKalb county,' approved February 12, 1863," approved March 7, 1867.

"An act fixing the time of holding the supreme court in the first grand division," approved February 16, 1867.

"An act fixing the terms of the supreme court in the first and third grand divisions," approved February 22, 1867.

"An act to provide for the compensation of county judges," approved February 26, 1867.

"An act to fix the pay of certain officers therein named," approved March 5, 1867.

"An act to extend the jurisdiction of the county judge of Will county, Illinois, while acting as a justice of the peace," approved March 7, 1867.

"An act to increase the compensation of the county judge and associate justices in the county of Madison," approved March 8, 1867.

"An act giving the counties of Alexander and Pulaski concurrent jurisdiction over Cache river, and for other purposes," approved February 21, 1867.

"An act to prevent the introduction and propagation of Canada thistles in the state of Illinois," approved February 28, 1867.

"An act to amend an act entitled 'An act to authorize the formation of corporations for manufacturing, mechanical or chemical purposes,' approved February 18, 1857," approved February 21, 1867.

"An act in relation to the consolidation of incorporated companies," approved March 9, 1867.

1867. — — — Laws Repealed. — — — 1867.

"An act providing a remedy upon the class of contracts therein referred to," approved February 28, 1867.

"An act for canal and river improvements," approved February 28, 1867.

"An act to define and punish the crime commonly called the 'confidence game,'" approved February 27, 1867.

"An act to amend the criminal code of this state in relation to the offense of abortion," approved February 28, 1867.

"An act in relation to the crime of larceny," approved March 5, 1867.

"An act in relation to capital punishment," approved March 5, 1867.

"An act to authorize the coroner of Cook county to appoint deputies," approved March 7, 1867.

"An act to amend an act entitled 'An act to facilitate the drainage of wet lands,'" approved February 19, 1867.

"An act to amend the drainage law," approved February 25, 1867.

"An act to amend an act entitled 'An act to facilitate the drainage of wet lands,'" approved February 25, 1867.

"An act for the releasing of trust deeds in the nature of mortgages," approved February 25, 1867.

"An act in relation to district road tax," approved February 27, 1867.

"An act to facilitate the distribution of the laws, journals and reports of this state," approved March 7, 1867.

"An act making eight hours a legal day's work," approved March 5, 1867.

"An act to change the time of electing certain officers in a county therein named," approved February 28, 1867.

"An act to provide for the division of towns or election districts in counties adopting township organization into two or more election districts," approved February 28, 1867.

"An act to amend the revenue laws, and to establish a state board for the equalization of assessments," approved March 8, 1867.

"An act to amend 'An act in relation to the fees of certain officers in certain counties therein named,' approved February 16, 1865," approved February 26, 1867.

"An act to increase the fees of certain officers in the county of Peoria," approved February 23, 1867.

"An act to amend 'An act to regulate the fees and compensation of sheriffs and collectors in certain counties,' approved February 16, 1865," approved February 26, 1867.

"An act to extend the provisions of and continue in force an act entitled 'An act to regulate the fees and compensation of sheriffs and collectors in certain counties,' approved February the 16th, 1865," approved February 28, 1867.

"An act to establish and fix the fees of justices of the peace and constables in this state," approved February 28, 1867.

1867. - - - Laws Repealed. - - - 1867.

"An act to increase the compensation of the sheriffs of the counties of Adams and St. Clair, for dieting prisoners," approved March 7, 1867.

"An act in relation to fees of county officers in certain counties," approved March 7, 1867.

"An act to amend an act entitled 'An act to amend the act entitled 'Fees and salaries,' approved February 12, 1849, and to simplify said act,' " approved March 7, 1867.

"An act to increase the compensation of sheriffs in the county of Knox," approved March 7, 1867.

"An act to prohibit netting fish at the grand rapids of the Wabash river, in Wabash county," approved March 5, 1867.

"An act to preserve the fish in the Illinois and Fox rivers, and in the Illinois and Michigan canal at the places designated in said act," approved March 7, 1867.

"An act to amend the law in relation to fugitives from justice," approved March 8, 1867.

"An act to extend the provisions of the game law to certain counties therein named, and to prevent non-residents from killing game for market," approved March 8, 1867.

"An act in relation to married women," approved March 5, 1867.

"An act to extend the provisions of an act entitled 'An act for the better security of mechanics erecting buildings in the state of Illinois,' approved February 14, 1863," approved March 7, 1867.

"An act to amend an act entitled 'An act for the preservation of game,' approved February 16, 1865," approved February 19, 1867.

"An act to provide for the adoption of minors," approved February 22, 1867.

"An act to increase the number of notaries public in this state," approved February 28, 1867.

"An act in relation to notaries public in the city of Freeport," approved February 28, 1867.

"An act to amend an act entitled 'An act in relation to limited partnerships,' approved February 23, 1847," approved February 18, 1867.

"An act for the protection of personal liberty," approved March 5, 1867.

"An act to amend an act entitled 'An act to provide for the construction of plank roads by a general law,' approved February 12, 1849, and the several acts amendatory thereof," approved March 5, 1867.

"An act in relation to publishing the public laws of the state of Illinois," approved February 25, 1867.

"An act providing for a reduction in the rate of state taxation for payment of interest accruing on the public debt," approved March 6, 1867.

"An act to amend an act entitled 'An act to reduce the several acts in relation to printing and binding into one act, and to amend the same,'" approved March 7, 1867.

1867. — — — Laws Repealed. — — — 1867.

“An act concerning branch railways in this state,” approved March 5, 1867.

“An act for the appointment of official reporters and for the preservation of evidence in certain cases in Cook county,” approved March 6, 1867.

“An act to regulate the indexing of records,” approved February 28, 1867.

“An act to amend chapter 79 of the Revised Statutes of 1845, entitled ‘Partitions,’” approved February 28, 1867.

“An act to amend an act entitled ‘An act to amend chapter XLIII of the Revised Statutes, entitled ‘Forcible entry and detainer,’ approved May 16, 1865,” approved March 5, 1867.

“An act construing the part of section 13, of chapter 83, of the Revised Statutes, entitled ‘Practice,’ so far as the same relates to the continuance of causes,” approved March 6, 1867.

“An act to amend chapter 110, Revised Statutes, entitled ‘Wills,’” approved March 7, 1867.

“An act to amend chapter 30, of the Revised Statutes of 1845,” approved March 7, 1867.

“An act to amend chapter 36 of the Revised Statutes, entitled ‘Roads,’” approved March 7, 1867.

“An act to amend chapter thirty (30) of the Revised Statutes, entitled ‘Criminal jurisprudence,’” approved March 9, 1867.

“An act to amend chapter 93 of the Revised Statutes of 1845, entitled ‘Roads,’” approved March 9, 1867.

“An act to amend an act entitled ‘An act to establish and maintain a system of free schools in the state of Illinois,’ approved February 16, 1865,” approved February 28, 1867.

“An act entitled ‘An act to extend the powers and jurisdiction of collectors of taxes,’” approved March 8, 1867.

“An act compelling holders of tax certificates to take out deeds or lose their claims,” approved March 8, 1867.

“An act in regard to publishing delinquent tax list,” approved March 6, 1867.

“An act amending an act for the establishment of telegraphs,” approved March 9, 1867.

“An act to amend article 17 of an act entitled ‘An act to reduce the act to provide for township organization, and the several acts amendatory thereof, into one act, and to amend the same,’” approved February 28, 1867.

“An act to amend an act entitled ‘An act to reduce the act to provide for township organization, and the several acts amendatory thereof, into one act, and to amend the same,’” approved March 8, 1867.

“An act to amend ‘An act to reduce the act to provide for township organization, and the several acts amendatory thereof, into one act,’” approved March 8, 1867.

“An act to amend an act entitled ‘An act for the better government of

1867. - - - Laws Repealed. - - - 1869.

towns and cities, and to amend the charters thereof,' approved February 27, 1854," approved February 27, 1867.

"An act regulating warehousemen and authorizing connections of railroads with warehouses, and for other purposes," approved February 16, 1867.

"An act to amend an act entitled 'An act regulating warehousemen, and authorizing connections of railroads with warehouses and for other purposes,' approved February 16, 1867," approved February 25, 1867.

"An act relating to the competency of witnesses in civil cases," approved February 19, 1867.

"An act to amend an act entitled 'An act to reduce the several acts in relation to printing and binding into one act and to amend the same, approved February 16, 1865," approved March 9, 1867.

"An act to provide for the assessment and collection of taxes on the shares of capital stock in banks and banking associations," approved June 13, 1867.

"An act to provide for the management of the Illinois State penitentiary at Joliet," approved June 28, 1867.

"An act in relation to the crime of larceny," approved June 28, 1867.

"An act relative to mining for lead ore or other minerals," approved February 21, 1867.

1869.

"An act to amend an act entitled 'Abatements,' approved March, 1845, and to extend the time for closing up the affairs of corporations," approved March 24, 1869.

"An act to provide for the keeping up of abstracts," approved March 30, 1869.

"An act to repeal certain acts therein named, and to provide for the appointment and prescribe the duties of the adjutant-general of the state of Illinois," approved March 10, 1869.

"An act to prevent the loaning of flags and trophies of war," approved March 29, 1869.

"An act to provide for the disposal of unclaimed moneys in the hands of administrators and executors," approved March 29, 1869.

"An act to enable foreign administrators with the will annexed, to sue in this state," approved March 29, 1869.

"An act to amend an act entitled 'An act to aid and encourage agricultural societies,' approved 18, 1857, revived and continued in force by an act entitled 'An act to revive and continue in force an act entitled 'An act to aid and encourage county agricultural societies,' approved February 21, 1861," approved March 10, 1869.

"An act to allow the justices of the supreme court compensation for clerk hire," approved February 11, 1869.

1869. — — — Laws Repealed. — — — 1869.

“An act to provide for the greater accuracy and safety of the public records,” approved March 26, 1869.

“An act to provide for the revision of the statutes,” approved March 8, 1869.

“An act in aid of a revision of the statute laws of this state,” approved January 29, 1869.

“An act relating to assessment and taxation in school districts,” approved March 29, 1869.

“An act to amend ‘An act for the assessment of property,’ approved February 12, 1853,” approved April 8, 1869.

“An act authorizing the sale of unclaimed baggage and other property,” approved April 16, 1869.

“An act to amend an act entitled ‘An act for canal and river improvements,’ approved February 28, 1867,” approved February 25, 1869.

“An act granting certain privileges to parties resident along the line of the Illinois and Michigan canal,” approved March 27, 1869.

“An act in reference to the improvement of the navigable condition of so much of the Illinois and Michigan canal as extends from lock fifteen (15), and known as the steamboat channel, to its intersection with the Illinois river,” approved March 30, 1869.

“An act providing the manner of redemption and sale of certain forfeited canal lands and town lots, and also authorizing and requiring the state trustee of the Illinois and Michigan canal to settle his accounts with the state,” approved March 31, 1869.

“An act to amend an act entitled ‘An act in relation to capital punishment,’” approved March 13, 1869.

“An act to authorize the confessions of judgment in the circuit court of the ninth judicial district during vacation,” in force April 15, 1869.

“An act to fix the times of holding circuit courts in the fourteenth judicial circuit, and to regulate the practice therein,” approved March 26, 1869.

“An act to change the time of holding court in the fifteenth judicial circuit, and to regulate the qualification of jurors therein,” approved March 15, 1869.

“An act to change the times of holding courts in the sixteenth judicial circuit, and relating to the practice therein,” approved January 13, 1869.

“An act to change the time of holding courts in the seventeenth judicial circuit, and concerning jurors in said circuit, and regulating publications,” approved January 27, 1869.

“An act to regulate the time of holding courts in the twentieth judicial circuit, and to provide for an official reporter in said circuit,” approved February 19, 1869.

“An act to extend the powers of the judge of the twenty-second judicial circuit in vacation,” approved March 25, 1869.

1869. - - - Laws Repealed. - - - 1869.

"An act to fix the times of holding circuit courts in the twenty-seventh judicial circuit, and for other purposes," approved January 30, 1869.

"An act to establish the thirtieth judicial circuit, and for the election of a prosecuting attorney in the eighteenth judicial circuit," approved March 11, 1869.

"An act for the protection of consignors of fruit, grain, flour, etc., to be sold on commission," approved March 4, 1869.

"An act to allow convicts in the penitentiary a credit for good conduct, in diminution of their term of imprisonment," approved April 16, 1869.

"An act concerning persons committed to the penitentiary," approved March 31, 1869.

"An act supplementary to an act entitled 'An act for the government and discipline of the Illinois penitentiary,' and amendments thereto, passed at the present general assembly," approved April 19, 1869.

"An act to provide for the employment of county convicts," approved April 19, 1869.

"An act to further define the duties of coroners," approved March 30, 1869.

"An act to authorize the formation of corporations to provide the members thereof with homesteads or lots of land suitable for homesteads," approved March 26, 1869.

"An act in relation to the criminal code of this state, and amendments thereof," approved March 31, 1869.

"An act for the prevention of cruelty to animals," approved March 31, 1869.

"An act to amend an act entitled 'An act for the government and discipline of the Illinois State Penitentiary,'" approved April 16, 1869.

"An act to amend an act entitled 'An act to extend the jurisdiction of the county courts of Grundy and Livingston counties,' approved February 15, 1855," approved March 30, 1869.

"An act to regulate the terms of the county court in LaSalle county, and to regulate practice in said court," approved March 6, 1869.

"An act to provide for filling vacancies in the office of county judges," approved March 30, 1869.

"An act to amend an act entitled 'An act to provide for the compensation of county judges,' approved February 26, 1867," approved March 25, 1869.

"An act to provide for an interchange of holding court by the judge of the county court of Cook county and the judges of the various courts of record in Cook county," approved March 30, 1869.

"An act to provide for additional compensation to the county judge of Jo Daviess county, in this state," approved March 30, 1869.

"An act to extend the jurisdiction of the county judge of Lee county, Illinois, where acting as a justice of the peace," approved March 4, 1869.

1869. — — — Laws Repealed. — — — 1869.

"An act to amend an act entitled 'An act to extend the jurisdiction of the county judge of Will county, Illinois, while acting as a justice of the peace,'" approved March 13, 1869.

"An act to authorize county courts and boards of supervisors to vacate streets and alleys, or parts thereof, in unincorporated towns and villages," approved March 25, 1869.

"An act to facilitate the assessment of real estate in the county of St. Clair," approved March 8, 1869.

"An act in relation to practice in the supreme court," approved March 26, 1869.

"An act to protect butter and cheese manufacturers," approved March 9, 1869.

"An act in relation to divorce, alimony and maintenance, in certain cases of bigamy," approved April 5, 1869.

"An act to amend an act entitled 'An act to facilitate the drainage of wet lands,' approved February 16, 1865; also to amend an act entitled 'An act to amend the drainage law,' approved February 25, 1867," approved April 14, 1869.

"An act to amend an act entitled 'An act to amend the drainage law,' approved February 25, 1867, and apply the same to Henderson county," approved March 8, 1869.

"An act to prevent frauds in elections for subscriptions to stock in or for donations in aid of any incorporation, or concerning county seats," approved March 10, 1869.

"An act in relation to the fees of the state's attorney of the seventh judicial circuit," approved March 10, 1869.

"An act to amend an act entitled 'An act in relation to the fees of certain county officers in certain counties therein named,' approved February 26, 1867," in force April 17, 1869.

"An act to repeal certain acts therein named," approved March 13, 1869.

"An act reducing, regulating and fixing the fees of certain county and other officers in certain counties therein named," approved March 27, 1869.

"An act to regulate the fees of the county officers of the county of Fayette," approved March 29, 1869.

"An act to amend 'An act in relation to the fees of certain officers in certain counties therein named,' approved February 16, 1865; and also an act entitled 'An act in relation to fees of county officers in certain counties,' approved March 7, 1867," in force April 20, 1869.

"An act to repeal the increased fees of certain officers in the county of Hamilton," approved March 25, 1869.

"An act to amend an act entitled 'An act to amend an act to regulate the fees and compensation of sheriffs and collectors in certain counties,' approved February 26, 1867," in force April 16, 1869.

"An act to repeal certain laws increasing the fees of certain officers in Kendall county, Illinois," approved March 30, 1869.

"An act in relation to fees of certain officers in the counties of Pike and Scott," approved March 27, 1869.

"An act to increase the fees and compensation of sheriffs in Vermilion county," approved March 20, 1869.

"An act for the preservation of fish in Rock river and its tributaries," approved March 25, 1869.

"An act for the preservation of fish in the county of Adams," approved March 24, 1869.

"An act to prohibit the netting of fish in Kankakee, Iroquois, and McHenry counties," approved March 29, 1869.

"An act to prohibit netting of fish within the county of Will," approved April 16, 1869.

"An act to amend an act entitled 'An act for the preservation of game,' approved February 16, 1865," approved April 13, 1869.

"An act to extend the provisions of the game law to certain counties therein named," approved March 30, 1869.

"An act to amend an act entitled 'An act for the preservation of game,' approved February 16, 1865," approved March 2, 1869.

"An act for the preservation of game in Montgomery county, and to amend an act entitled 'An act for the preservation of game,' approved February 16, 1865," approved March 29, 1869.

"An act to extend the provisions of the game law to the county of Moultrie," approved March 26, 1869.

"An act to punish frauds upon gas consumers and gas light companies," approved March 30, 1869.

"An act to regulate the sales by guardians of the interests of minors in water-power and real estate connected therewith," approved April 8, 1869.

"An act to prevent the unjust delaying by injunction of public improvements ordered by the proper authorities of the city of Chicago," approved March 11, 1869.

"An act to punish frauds upon insurance companies," approved March 29, 1869.

"An act to amend an act entitled 'An act to authorize the formation of township insurance companies,' approved February 20, 1867, applicable only to the Buckeye Insurance Company, organized under said act or any other company that may be or has been organized in Stephenson county," approved February 19, 1869.

"An act in reference to the tenure of office in certain cases," approved March 31, 1869.

"An act to provide for interest upon judgments," approved April 9, 1869.

1869. — — — Laws Repealed. — — — 1869.

"An act to regulate the practice in impaneling juries in civil causes in this state," approved March 26, 1869.

"An act to extend the jurisdiction of justice of the peace and police magistrate in certain cases," approved March 25, 1869.

"An act to amend the law of landlord and tenant," approved March 27, 1869.

"An act to provide for the permanent survey of lands," approved March 25, 1869.

"An act to provide for the preservation of the field notes, maps and other papers appertaining to land titles in the state of Illinois," approved March 27, 1869.

"An act to regulate the publication of legal notices in a certain county therein named," approved March 31, 1869.

"An act to regulate the manner of giving notice in legal proceedings," approved March 27, 1869.

"An act in relation to public libraries," approved March 30, 1869.

"An act in relation to the earnings of married women," approved March 24, 1869.

"An act amendatory of the mechanics' lien law of this state," approved April 5, 1869.

"An act to provide for the redemption of property sold under mechanics' lien," approved March 30, 1869.

"An act to extend the provisions of an act entitled 'An act for the better security of mechanics erecting buildings in the state of Illinois,' approved February 14, 1863," approved March 31, 1869.

"An act to amend an act entitled 'An act for the better security of mechanics erecting buildings in the state of Illinois,' approved February 14, 1863," approved March 30, 1869.

"An act to punish the stealing of newspapers and periodicals," approved March 27, 1869.

"An act concerning notaries public," approved April 19, 1869.

"An act to regulate the publishing of reports of state officers and other persons," approved March 31, 1869.

"An act to facilitate the settlement of the partnership interest of deceased persons' estates," approved March 26, 1869.

"An act to regulate the sale of patent rights in the state of Illinois, and prevent frauds connected therewith," approved March 25, 1869.

"An act for the preservation of pecan timber," approved March 27, 1869.

"An act to fix the pay and salaries of certain officers of the penitentiary at Joliet," approved March 31, 1869.

"An act in relation to the compensation of the commissioners of the Illinois State Penitentiary," approved March 30, 1869.

"An act in relation to principal and surety," approved March 4, 1869.

1869. - - - Laws Repealed. - - - 1869.

"An act in relation to contracts for printing paper and stationery for the use of the state," approved March 30, 1869.

"An act to prevent prize fighting and sparring or boxing exhibitions," approved March 31, 1869.

"An act to amend the railroad law," approved February 27, 1869.

"An act to amend an act entitled 'An act to provide for a general system of railroad incorporations,' approved November 5, A. D. 1849," approved March 22, 1869.

"An act concerning railroad rates for the conveyance of passengers and freight in the state of Illinois," approved March 10, 1869.

"An act to protect lives and property of persons at railway crossings of the public highways," approved March 31, 1869.

"An act relating to fencing railroads, and service of process in relation thereto," approved April 5, 1869.

"An act for the collection of railroad taxes in certain counties, cities and towns," approved April 9, 1869.

"An act requiring railroad companies to cut down Canada thistles and other noxious weeds along their lines of railroad," approved March 29, 1869.

"An act to provide for the greater accuracy and safety of the public records," approved March 26, 1869.

"An act to amend an act entitled 'An act for the appointment of official reporters, and for the preservation of evidence in certain cases in Cook county,'" approved March 11, 1869.

"An act to authorize the appointment of an official reporter in the ninth judicial circuit," approved March 30, 1869.

"An act to authorize the appointment of an official reporter in the eighteenth judicial circuit," approved March 31, 1869.

"An act for the appointment of reporters, and for the preservation of evidence in certain counties therein named," approved March 31, 1869.

"An act to regulate the times of holding courts in the twentieth judicial circuit, and to provide for an official reporter in said circuit," approved February 19, 1869.

"An act to amend an act entitled 'An act to amend the revenue laws, and to establish a state board for the equalization of assessments,' approved March 8, 1867," approved March 26, 1869.

"An act authorizing certain officers therein named to receive national bank notes and fractional currency in payment of taxes," approved March 4, 1869.

"An act to amend the revenue law," approved April 17, 1869.

"An act to amend chapter nine of the Revised Statutes of 1845, entitled 'Attachments in circuit courts,'" approved March 31, 1869.

"An act to amend section thirty of chapter nine of the Revised Statutes of the State of Illinois, approved March 3, 1845," approved April 8, 1869.

1869. — — — Laws Repealed. — — — 1869.

“An act to amend chapter sixteen of the Revised Statutes of 1845, entitled ‘Bastardy,’” approved March 30, 1869.

“An act to amend chapter twenty-one (21) of the Revised Statutes of 1845,” approved March 27, 1869.

“An act to amend section twelve of chapter twenty-one (21) of the Revised Statutes of 1845, entitled ‘Chancery,’” approved March 31, 1869.

“An act to amend chapter twenty-one of the Revised Statutes of 1845, entitled ‘Chancery,’” approved March 12, 1869.

“An act to amend chapter twenty-two of the Revised Statutes of 1845, entitled ‘Charitable uses,’” approved March 31, 1869.

“An act to amend chapter twenty-two of the Revised Statutes of 1845, entitled ‘Charitable uses,’” approved April 1, 1869.

“An act to amend chapter twenty-four of the Revised Statutes, entitled ‘Conveyances,’” approved March 27, 1869.

“An act to amend an act entitled ‘An act to amend chapter twenty-four of the Revised Code of 1845, entitled ‘Conveyances,’” approved February 21, 1861,” approved March 27, 1869.

“An act to amend chapter twenty-four (24) of the Revised Statutes, entitled ‘Conveyances,’” approved March 9, 1869.

“An act to amend chapter thirty of the Revised Statutes of 1845, entitled ‘Criminal jurisprudence,’ in relation to the crime of arson,” approved March 4, 1869.

“An act to amend chapter thirty of the Revised Statutes,” approved March 10, 1869.

“An act to amend section one hundred and eighty-four, chapter thirty, of the Revised Statutes, entitled ‘Criminal jurisprudence,’” approved April 1, 1869.

“An act to amend chapter thirty-six of the Revised Statutes of 1845, entitled ‘Ejectment,’” approved March 26, 1869.

“An act to amend chapter forty-four of the Revised Statutes, entitled ‘Frauds and perjuries,’” approved March 27, 1869.

“An act to amend chapter forty-seven of the Revised Statutes of 1845,” approved March 4, 1869.

“An act to amend chapter forty-seven of the Revised Statutes of 1845, entitled ‘Guardian and ward,’” approved April 8, 1869.

“An act to amend chapter fifty of the Revised Statutes, entitled ‘Idiots and lunatics,’ and to extend the provisions thereof to habitual drunkards,” approved April 19, 1869.

“An act to amend section fifty-one (51) and fifty-eight of chapter fifty-nine (59) of the Revised Statutes, entitled ‘Justices of the peace and constables,’” approved March 27, 1869.

“An act to amend chapter seventy-nine of the Revised Statutes of 1845,” in force April 16, 1869.

1869. - - - Laws Repealed. - - - 1869.

"An act to amend the statute relating to partitions," approved March 24, 1869.

"An act to amend chapter eighty of the Revised Statutes, entitled 'Paupers,'" approved March 29, 1869.

"An act to amend chapter eighty-three of the Revised Statutes of 1845, entitled 'Practice,'" approved March 26, 1869.

"An act to amend chapter eighty-three of the Revised Statutes, entitled 'Practice,'" approved March 5, 1869.

"An act to amend chapter eighty-eight of the Revised Statutes," approved March 29, 1869.

"An act to amend section one hundred and thirty-four of chapter one hundred and nine of the Revised Statutes of 1845," approved April 8, 1869.

"An act to amend chapter [109] of the Revised Statutes, entitled 'Wills,'" approved March 31, 1869.

"An act to amend an act entitled 'An act to amend the law condemning right of way for purposes of internal improvement,' approved June 22, 1852," approved March 8, 1869.

"An act concerning the locating, laying out and opening of public roads," approved March 25, 1869.

"An act to permit the planting of shade and ornamental trees along public roads," approved March 25, 1869.

"An act to amend the road law so far as it relates to the county of Grundy," approved March 30, 1869.

"An act to amend an act entitled 'An act prescribing and establishing a method for testing and correcting cattle and platform scales in the state of Illinois,'" approved March 26, 1869.

"An act to amend the school law," approved March 30, 1869.

"An act to amend section forty-three of 'An act to establish and maintain a system of free schools,' passed and approved February 16, 1857," approved March 29, 1869.

"An act concerning reports of school officers, and of incorporate institutions of learning," approved March 29, 1869.

"An act regulating the duties of county superintendents of public schools in Brown and Schuyler counties," in force April 16, 1869.

"An act in relation to the compensation and duty of the county superintendent of schools in Jo Daviess county," approved March 30, 1869.

"An act to provide for the authentication of documents by the secretary of state," approved March 9, 1869.

"An act to authorize sheriffs to appoint special deputies," approved March 25, 1869.

"An act to increase the compensation of sheriffs in the county of Fulton," approved March 8, 1869.

"An act to change the time of holding the annual meeting of the board of supervisors," approved March 29, 1869.

1869. — — — Laws Repealed. — — — 1871-2

“An act to amend the township organization law in relation to the collection of taxes for road purposes,” approved March 11, 1869.

“An act to amend an act entitled ‘Township organization,’ approved February 17th, 1851,” approved March 25, 1869.

“An act to amend section two of an act entitled ‘An act to amend an act to reduce the act to provide for township organization and the several acts amendatory thereof into one act,’ passed at the session of 1867,” approved March 4, 1869.

“An act to facilitate the transportation of grain, produce and merchandise,” approved March 11, 1869.

“An act to amend an act entitled ‘An act in relation to the transportation of grain and other produce,’ approved February 14, 1865,” approved April 8, 1869.

“An act to amend an act entitled ‘An act to authorize the incorporation of unitary homes,’ approved February 25th, 1867,” approved March 29, 1869.

“An act to protect widows and orphans from the sacrifice of their property by sales upon mortgages and trust deeds,” approved March 30, 1869.

1871-2.

“An act to secure equality of assessment in special school districts,” approved February 3, 1872.

“An act to provide for the re-assessment and taxation of property where the records of assessment have been lost or destroyed, and to authorize the reassessment or abatement of taxes in certain cases,” approved February 29, 1872.

“An act to authorize the assessment of property and the levy and collection of taxes in municipal corporations, and by boards of trustees and commissioners when the assessment roll has been lost or destroyed,” approved April 1, 1872.

“An act to amend ‘A general act of incorporation of agricultural and horticultural societies and associations for improving the breeds of domestic animals,’ approved February 15, 1855,” approved February 29, 1872.

“An act authorizing agricultural societies to sell, exchange, dispose of and convey lands,” approved March 8, 1872.

“An act to create a department of agriculture in the state of Illinois,” approved April 15, 1871.

“An act to amend an act entitled ‘An act to create a department of agriculture in the state of Illinois,’ approved April 17, 1871,” approved April 2, 1872.

“An act to authorize the county boards or other bodies having control and management of the county affairs of the several counties of this state, to take measures to enforce all laws in regard to the prevention of cruelty to animals,” approved March 1, 1872.

1871-2. - - - Laws Repealed. - - - 1871-2.

"An act to prohibit domestic animals from running at large in this state," approved January 13, 1872.

"An act to amend an act entitled 'An act for the prevention of cruelty to animals,' approved March 31, 1869," approved March 8, 1872.

"An act to enable associations of persons to become a body corporate to raise funds to be loaned only among their members," approved April 4, 1872.

"An act in regard to attorneys-general and state's attorneys," approved March 22, 1872.

"An act for the incorporation of bridge companies," approved April 10, 1872.

"An act to provide for the erection and maintenance of bridges by two or more towns," approved March 22, 1872.

"An act relative to the powers and duties of the canal commissioners relative to the Illinois and Michigan canal, the lock and dam at Henry, and the improvement of the Little Wabash river," approved March 7, 1872.

"An act to make the certificates of the register or receiver of any land office of the United States *prima facie* evidence," approved March 22, 1872.

"An act giving county boards control of county convicts, and to provide workhouses for and the employment of such convicts," approved April 9, 1872.

"An act to provide for the election of a board of commissioners in Cook county, and to prescribe their duties," approved April 22, 1871.

"An act to provide for holding regular and special terms of the circuit court in two or more counties in the same circuit at the same time," approved December 9, 1871.

"An act to increase the jurisdiction of county courts," approved April 5, 1872.

"An act to prevent the sale of drugs or medicines designed to procure criminal abortion," approved March 27, 1872.

"An act incorporating the Illinois institution for the education of feeble minded children," approved April 6, 1871.

"An act to amend an act entitled 'An act amendatory of an act approved March 3, 1845, in relation to fire companies,' approved February 24, 1859," approved March 8, 1872.

"An act to prevent the keeping of common gaming houses, and to prevent gaming," approved February 29, 1872.

"An act to provide for the appointment of guardians of habitual drunkards, and prescribing the duties of such guardians," approved February 21, 1872.

"An act to prohibit persons from hunting within the enclosures of others without leave," approved April 15, 1871.

"An act to incorporate and to govern mutual fire insurance companies in townships," approved April 3, 1872.

"An act to prohibit the use of common jails by the authorities of cities and towns as a calaboose or lock-up," approved April 5, 1872.

"An act to extend the powers of judges of circuit courts in vacation," approved March 7, 1872.

"An act to increase the jurisdiction of justices of the peace and police magistrates," in force July 1, 1871.

"An act concerning the increase of the jurisdiction of justices of the peace and police magistrates," approved March 5, 1872.

"An act to provide against the evils resulting from the sale of intoxicating liquors in the state of Illinois," approved January 13, 1872.

"An act to provide for the inspection and sale of mineral oils and fluids, the product of petroleum, used for illuminating purposes," approved April 9, 1872.

"An act to prevent the sale or bringing into this state of obscene books, pamphlets, prints or paintings, and to repeal section one hundred and twenty-eight (128), division eleven (11), of chapter thirty (30), of the Revised Statutes of 1845," approved March 7, 1872.

"An act to secure to all persons freedom in the selection of an occupation, profession or employment," approved March 22, 1872.

"An act to legalize the action of counties which have voted for the support of paupers by townships," approved April 17, 1871.

"An act to provide for and regulate the execution of the public printing," approved April 9, 1872.

"An act to prevent injury to persons or property at railroad junctions or crossings," approved April 9, 1872.

"An act to establish a reasonable maximum rate of charges for the transportation of passengers on railroads in this state," approved April 15, 1871.

"An act authorizing the formation of union depots and stations for railroads in this state," approved April 3, 1872.

"An act to authorize towns to sell and convey real estate," approved April 2, 1872.

"An act to provide for the sale of real property escheated to and vested in the state," approved April 4, 1872.

"An act to provide for the election of a recorder of deeds in counties having sixty thousand and more inhabitants," approved April 16, 1872.

"An act to provide for the copying of old or damaged public record books," approved March 26, 1872.

"An act to amend chapter thirty of the Revised Statutes, entitled 'Criminal Jurisprudence,' so as to prevent misfeasance in office, or charging or receiving illegal fees, and in giving or offering to give or receiving or offering to receive a bribe," approved April 9, 1872.

"An act to amend section seven of chapter fifty-five of the Revised Statutes of 1845, entitled 'Jails and Jailers,' approved April 4, 1872.

 1871-2. - - - Laws Repealed. - - - 1878.

"An act to amend section four of chapter eighty of the Revised Statutes of A. D. 1845, entitled 'Paupers,'" approved March 1, 1872.

"An act providing for the payment of the school tax fund orders and the school fund interest orders," approved June 29, 1871.

"An act providing for the payment of the school tax fund orders and the school fund interest orders," approved January 5, 1872.

"An act requiring the secretary of state to make a biennial report of the business of his office, and providing for the sale of certain property," approved April 4, 1872.

"An act to secure uniform and reliable statistics concerning the dependent and criminal classes, and their treatment in state and county institutions," approved March 15, 1872.

"An act to authorize cities having a population not exceeding fifteen thousand inhabitants, to levy and collect taxes for corporate purposes," approved March 7, 1872.

"An act to restore uniformity in the taxation of real and personal property for all purposes in the several counties and cities of this state," approved January 4, 1872.

"An act to amend the law concerning township organization," approved April 12, 1871.

"An act to amend the law concerning township organization," approved January 31, 1872.

1873.

"An act to amend section two of an act entitled 'An act to prohibit domestic animals from running at large in this state,' approved January 13, 1872," approved May 2, 1873.

"An act to enable towns to prohibit domestic animals from running at large in counties where they are not prohibited by law," approved April 11, 1873.

"An act to amend an act entitled 'An act to prohibit domestic animals from running at large in this state,' approved January 13, 1872," approved May 1, 1873.

"An act to provide for copying the laws and journals of the general assembly," approved April 29, 1873.

"An act to provide for transferring territory from one county to another," approved May 1, 1873.

"An act to amend an act entitled 'An act to amend chapter 30 of the Revised Statutes, entitled 'Criminal jurisprudence,' approved February 13, 1863," approved March 19, 1873.

"An act authorizing circuit judges to hold branch or branches of courts in other than their judicial districts," approved May 3, 1873.

"An act to fix the terms of county courts," approved May 2, 1873.

"An act to provide for the appointment of a board of trustees and a steward for the Southern Illinois Insane Asylum, and a board of trustees for

1873. — — — Laws Repealed. — — — 1873.

the Southern Illinois Normal School, and to prescribe the duties of such boards of trustees and steward," approved May 2, 1873.

"An act to amend an act entitled 'An act to provide for the adoption of minors,' approved February 22, 1867," approved April 25, 1873.

"An act for the suppression of the trade in and circulation of obscene literature, illustrations, advertisements and articles of indecent or immoral use, and obscene advertisements of patent medicines and articles for producing abortion," approved May 3, 1873.

§ 2. The repeal of the acts and parts of acts mentioned in the preceding section shall not affect suits pending or rights existing at the time this act takes effect, and as to all corporations, municipal or private, heretofore formed under any act of incorporation mentioned in the preceding section, such act of incorporation, and all amendments thereof, shall continue in force to the same extent and with like effect as if the same had not been repealed by this act, nor shall such repeal, as above mentioned, be taken, construed or held to avoid or impair any grant made or right acquired, or cause of action now existing under any such acts, or the amendments thereto, but as to all grants made or rights acquired, or causes of action now existing, said laws shall be continued in full force and effect. And all deeds or other instruments of writing affecting real estate, which have been proved or acknowledged according to any law in force at the time such proof or acknowledgment was made, may be recorded, and the same or a certified copy of the record thereof be read in evidence, notwithstanding the repeal of such laws by this or any other act of this or the twenty-seventh general assembly. And when any limitation law has been revised by this or the twenty-seventh general assembly, and the former limitation law repealed, such repeal shall not be construed so as to stop the running of any statute, but the time shall be construed as if such repeal had not been made.

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